

AMENDED IN ASSEMBLY SEPTEMBER 6, 2005

AMENDED IN SENATE APRIL 18, 2005

SENATE BILL

No. 1100

Introduced by ~~Senator Perata~~ *Senators Perata and Ducheny*

February 22, 2005

~~An act to amend Sections 56661 and 56668 of the Government Code, relating to local agency formation. An act to add and repeal Article 5.2 (commencing with Section 14166) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, relating to hospitals, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1100, as amended, Perata. ~~Local agency formation commissions. Hospital funding.~~

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Services and under which qualified low-income persons receive health care benefits, including hospital services. The Medi-Cal program is, in part, governed and funded by federal Medicaid provisions. Existing law authorizes the California Medical Assistance Commission to negotiate selective provider contracts with eligible hospitals to provide inpatient hospital services to Medi-Cal beneficiaries.

Existing law generally defines a disproportionate hospital as a hospital that has disproportionately higher costs, volume, or services related to the provision of services to Medi-Cal or other low-income patients than the statewide average. Under existing law, an eligible disproportionate share hospital may receive supplemental Medi-Cal reimbursement.

This bill would establish the Medi-Cal Hospital/Uninsured Care Demonstration Project Act that would revise hospital reimbursement methodologies in order to maximize the use of federal funds consistent with federal Medicaid law and stabilize the distribution of funding for hospitals that provide care to Medi-Cal beneficiaries and uninsured patients. These provisions would have retroactive application to services rendered on and after July 1, 2005.

This bill would authorize the director, if certain conditions exist, to modify the processes and methodologies established under the demonstration project to achieve equitable distribution of demonstration project funding, and if equitable distribution cannot be achieved, as determined by the director after consulting with affected hospitals, to execute a declaration to that affect. The bill would provide that the demonstration project shall become inoperative on the date that the director executes the declaration and shall be repealed as of January 1 of the following year. Unless repealed as provided in that provision, the bill would provide that the demonstration project shall become inoperative on the date that the director executes a declaration, which shall be retained by the director and provided to the fiscal and appropriate policy committees of the Legislature, stating that the federal demonstration project provided for in this bill has been terminated by the federal Centers for Medicare and Medicaid Services, in which case the provisions of the bill would be repealed 6 months after the date the declaration is executed.

This bill would appropriate to the department \$1,700,000 from the General Fund and \$1,700,000 from the Federal Trust Fund to fund staff positions to support the implementation of the demonstration project.

The bill would establish the following continuously appropriated funds to be expended by the department:

(1) The Demonstration Disproportionate Share Hospital Fund, that would consist of federal funds claimed and received by the department as federal financial participation with respect to certified public expenditures.

(2) The Health Care Support Fund, consisting of safety net care pool funds, as defined, claimed and received by the department.

(3) The Private Hospital Supplemental Fund, the Nondesignated Public Hospital Supplemental Fund, and the Distressed Hospital Fund, which would consist of moneys from various sources, to be used

as the source of the nonfederal share of payments to private hospitals, as defined, nondesignated public hospitals, as defined, and distressed hospitals, as defined, respectively.

This bill would declare that it is to take effect immediately as an urgency statute.

~~Existing law requires the executive officer of the local agency formation commission to notify by mail the Director of Forestry and Fire Protection when a proposal for a change of organization or reorganization includes the formation of, or annexation of territory to, a fire protection district and all or part of the affected territory has been classified as a state responsibility area.~~

~~This bill instead would require the executive officer to notify the Director of Forestry and Fire Protection if a proposal for a change of organization or reorganization of a city or special district that provides or would provide structural fire protection services where the affected territory is a state responsibility area.~~

~~Existing law specifies some of the factors to be considered by the commission in the review of a proposal, including the comments of any affected local agency.~~

~~This bill would also require consideration of the comments of any affected public agency.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: ~~majority~~^{2/3}. Appropriation: ~~no~~yes. Fiscal committee: yes. State-mandated local program: ~~yes~~no.

The people of the State of California do enact as follows:

- 1 *SECTION 1. Article 5.2 (commencing with Section 14166) is*
- 2 *added to Chapter 7 of Part 3 of Division 9 of the Welfare and*
- 3 *Institutions Code, to read:*

1 *Article 5.2. Medi-Cal Hospital Care/Uninsured Hospital Care*
2 *Demonstration Project Act*

3
4 14166. (a) *This article shall be known and may be cited as*
5 *the “Medi-Cal Hospital/Uninsured Care Demonstration Project*
6 *Act.”*

7 (b) *The Legislature finds and declares all of the following:*

8 (1) *The preservation of the state’s disproportionate share*
9 *hospitals and the University of California hospitals is of critical*
10 *importance to the health and welfare of the people of the state.*

11 (2) *These hospitals, as well as many nondisproportionate*
12 *district hospitals, are facing unprecedented financial challenges.*
13 *Many are facing significant budget deficits impeding their ability*
14 *to continue serving their essential role in the health care delivery*
15 *system, including providing care to Medi-Cal beneficiaries and*
16 *uninsured patients.*

17 (3) *The financial viability of these hospitals has been*
18 *sustained through funding that has been available for*
19 *California’s disproportionate share hospital program under*
20 *Medi-Cal. Without these funds, many of these hospitals would be*
21 *unable to keep their doors open and others would be forced to*
22 *curtail services, thereby impacting service to Medi-Cal*
23 *beneficiaries and other needy individuals.*

24 (4) *The federal Centers for Medicare and Medicaid Services*
25 *has indicated in negotiations with the State Department of Health*
26 *Services that it is changing its approach to federal funding of*
27 *Medicaid in various respects. For instance, the methodology that*
28 *many states, including California, have used to fund their*
29 *disproportionate share hospital programs successfully for more*
30 *than a decade has become the subject of negative attention by the*
31 *federal Centers for Medicare and Medicaid Services, which is*
32 *refusing to approve discretionary waivers and state plan*
33 *amendments that rely on these funding methods. Accordingly, the*
34 *State of California has proposed that the funding mechanism for*
35 *inpatient hospital services under Medi-Cal be modified to secure*
36 *federal approval and address continued and adequate funding to*
37 *the University of California and disproportionate share*
38 *hospitals. To this end, the state has negotiated a waiver from*
39 *various federal Medicaid requirements that will allow it to*
40 *implement a demonstration project using modified funding*

1 methodologies. The Medi-Cal Hospital/Uninsured Care
2 Demonstration Project is intended to make up to \$3.3 billion in
3 additional federal funds available to California safety net
4 hospitals over a five year period.

5 (5) The methodologies used to fund the Medi-Cal program
6 should maximize the use of federal funds consistent with federal
7 Medicaid law in an effort to access all of the increased federal
8 funding available under the Medi-Cal Hospital/Uninsured Care
9 Demonstration Project.

10 (6) The amount of Medi-Cal funding to the University of
11 California hospitals and disproportionate share hospitals as a
12 whole should not be less than the amount of funding for the
13 2004-05 fiscal year. Similarly, the amount of Medi-Cal funding
14 for the public disproportionate share hospitals as a group and
15 for the private disproportionate share hospitals as a group
16 should not be less than the amount of funding for the 2004-05
17 fiscal year.

18 (7) The distributions of Medi-Cal funds should provide a
19 predictable and stable amount of funding for these hospitals in
20 order to allow them to engage in short-term and long-term
21 planning. The distribution methodologies should be fair and
22 equitable, and take into account utilization changes among
23 hospitals.

24 (8) The payments of Medi-Cal funds to these hospitals should
25 be made regularly and periodically throughout the year in order
26 to provide hospitals with necessary cash flow.

27 14166.1. For purposes of this article, the following
28 definitions shall apply:

29 (a) "Allowable costs" means those costs recognized as
30 allowable under Medicare reasonable cost principles and
31 additional costs recognized under the demonstration project,
32 including those expenditures identified in Appendix D to the
33 Special Terms and Conditions for the demonstration project.
34 Allowable costs under this subdivision shall be determined in
35 accordance with the Special Terms and Conditions for the
36 demonstration project and demonstration project implementation
37 documents approved by the federal Centers for Medicare and
38 Medicaid Services.

39 (b) "Base year private DSH hospital" means a nonpublic
40 hospital, nonpublic-converted hospital, or converted hospital, as

1 *those terms are defined in paragraphs (26), (27), and (28),*
2 *respectively, of subdivision (a) of Section 14105.98, that was an*
3 *eligible hospital under paragraph (3) of subdivision (a) of*
4 *Section 14105.98 for the 2004-05 state fiscal year.*

5 *(c) "Demonstration project" means the Medi-Cal*
6 *Hospital/Uninsured Care Demonstration, Number*
7 *11-W-00193/9, as approved by the federal Centers for Medicare*
8 *and Medicaid Services.*

9 *(d) "Designated public hospital" means any one of the*
10 *following 22 hospitals identified in Attachment C,*
11 *"Government-operated Hospitals to be Reimbursed on a*
12 *Certified Public Expenditure Basis," to the Special Terms and*
13 *Conditions for the demonstration project issued by the federal*
14 *Centers for Medicare and Medicaid Services:*

- 15 *(1) UC Davis Medical Center.*
- 16 *(2) UC Irvine Medical Center.*
- 17 *(3) UC San Diego Medical Center.*
- 18 *(4) UC San Francisco Medical Center.*
- 19 *(5) UC Los Angeles Medical Center, including Santa*
20 *Monica/UCLA Medical Center.*
- 21 *(6) LA County Harbor/UCLA Medical Center.*
- 22 *(7) LA County Martin Luther King Jr. Charles R. Drew*
23 *Medical Center.*
- 24 *(8) LA County Olive View UCLA Medical Center.*
- 25 *(9) LA County Rancho Los Amigos National Rehabilitation*
26 *Center.*
- 27 *(10) LA County University of Southern California Medical*
28 *Center.*
- 29 *(11) Alameda County Medical Center.*
- 30 *(12) Arrowhead Regional Medical Center.*
- 31 *(13) Contra Costa Regional Medical Center.*
- 32 *(14) Kern Medical Center.*
- 33 *(15) Natividad Medical Center.*
- 34 *(16) Riverside County Regional Medical Center.*
- 35 *(17) San Francisco General Hospital.*
- 36 *(18) San Joaquin General Hospital.*
- 37 *(19) San Mateo Medical Center.*
- 38 *(20) Santa Clara Valley Medical Center.*
- 39 *(21) Tuolumne General Hospital.*
- 40 *(22) Ventura County Medical Center.*

1 (e) “Federal medical assistance percentage” means the
2 federal medical assistance percentage applicable for federal
3 financial participation purposes for medical services under the
4 Medi-Cal state plan pursuant to Section 1396b(a) of Title 42 of
5 the United States Code.

6 (f) “Nondesignated public hospital” means a public hospital
7 defined in paragraph (25) of subdivision (a) of Section 14105.98,
8 excluding designated public hospitals.

9 (g) “Project year” means the applicable state fiscal year of
10 the Medi-Cal Hospital/Uninsured Care Demonstration Project.

11 (h) “Project year private DSH hospital” means a nonpublic
12 hospital, nonpublic-converted hospital, or converted hospital, as
13 those terms are defined in paragraphs (26), (27), and (28),
14 respectively, of Section 14105.98, that was an eligible hospital
15 under paragraph (3) of subdivision (a) of Section 14105.98, for
16 the particular project year.

17 (i) “Prior supplemental funds” means the Emergency Services
18 and Supplemental Payment Fund, the Medi-Cal Medical
19 Education Supplemental Payment Fund, the Large Teaching
20 Emphasis Hospital and Children’s Hospital Medi-Cal Medical
21 Education Supplemental Payment Fund, and the Small and Rural
22 Hospital Supplemental Payments Fund, established under
23 Sections 14085.6, 14085.7, 14085.8, and 14085.9, respectively.

24 (j) “Private hospital” means a nonpublic hospital, nonpublic
25 converted hospital, or converted hospital, as those terms are
26 defined in paragraphs (26) to (28), inclusive, respectively, of
27 subdivision (a) of Section 14105.98.

28 (k) “Safety net care pool” means the federal funds available
29 under the Medi-Cal Hospital/Uninsured Care Demonstration
30 Project to ensure continued government support for the provision
31 of health care services to uninsured populations.

32 (l) “Uninsured” shall have the same meaning as that term has
33 in the Special Terms and Conditions issued by the federal
34 Centers for Medicare and Medicaid Services for the
35 demonstration project.

36 14166.2. (a) The demonstration project shall be implemented
37 and administered pursuant to this article.

38 (b) The director may modify any process or methodology
39 specified in this article to the extent necessary to comply with
40 federal law or the terms of the demonstration project, but only if

1 *the modification results in the equitable distribution of funding,*
2 *consistent with this article, among the hospitals affected by the*
3 *modification. If the director, after consulting with affected*
4 *hospitals, determines that an equitable distribution cannot be*
5 *achieved, the director shall execute a declaration stating that this*
6 *determination has been made. The director shall retain the*
7 *declaration and provide a copy, within five working days of the*
8 *execution of the declaration, to the fiscal and appropriate policy*
9 *committees of the Legislature. This article shall become*
10 *inoperative on the date that the director executes a declaration*
11 *pursuant to this subdivision, and as of January 1 of the following*
12 *year shall be repealed.*

13 *(c) The director shall administer the demonstration project*
14 *and related Medi-Cal payment programs in a manner that*
15 *attempts to maximize available payment of federal financial*
16 *participation, consistent with federal law, the Special Terms and*
17 *Conditions for the demonstration project issued by the federal*
18 *Centers for Medicare and Medicaid Services, and this article.*

19 *(d) As permitted by the federal Centers for Medicare and*
20 *Medicaid Services, this article shall be effective with regard to*
21 *services rendered throughout the term of the demonstration*
22 *project, and retroactively, with regard to services rendered on or*
23 *after July 1, 2005, but prior to the implementation of the*
24 *demonstration project.*

25 *(e) In the administration of this article, the state shall continue*
26 *to make payments to hospitals that meet the eligibility*
27 *requirements for participation in the supplemental*
28 *reimbursement program for hospital facility construction,*
29 *renovation, or replacement pursuant to Section 14085.5 and*
30 *shall continue to make inpatient hospital payments not covered*
31 *by the contract. These payments shall not duplicate any other*
32 *payments made under this article.*

33 *(f) The department shall continue to operate the selective*
34 *provider contracting program in accordance with Article 2.6*
35 *(commencing with Section 14081) in a manner consistent with*
36 *this article. A designated public hospital participating in the*
37 *certified public expenditure process shall maintain a selective*
38 *provider contracting program contract. These contracts shall*
39 *continue to be exempt from Chapter 2 (commencing with Section*
40 *10290) of Part 2 of Division 2 of the Public Contract Code.*

(g) *In the event of a final judicial determination made by any state or federal court that is not appealed in any action by any party or a final determination by the administrator of the Centers for Medicare and Medicaid Services that federal financial participation is not available with respect to any payment made under any of the methodologies implemented pursuant to this article because the methodology is invalid, unlawful, or is contrary to any provision of federal law or regulation, the director may modify the process or methodology to comply with law, but only if the modification results in the equitable distribution of demonstration project funding, consistent with this article, among the hospitals affected by the modification. If the director, after consulting with affected hospitals, determines that an equitable distribution cannot be achieved, the director shall execute a declaration stating that this determination has been made. The director shall retain the declaration and provide a copy, within five working days of the execution of the declaration, to the fiscal and appropriate policy committees of the Legislature. This article shall become inoperative on the date that the director executes a declaration pursuant to this subdivision, and as of January 1 of the following year shall be repealed.*

(h) (1) *The department may adopt regulations to implement this article. These regulations may initially be adopted as emergency regulations in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). For purposes of this article, the adoption of regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, and safety or general welfare. Any emergency regulations adopted pursuant to this section shall not remain in effect subsequent to 24 months after the effective date of this article.*

(2) *As an alternative, and notwithstanding the rulemaking provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, or any other provision of law, the department may implement and administer this article by means of provider bulletins, manuals, or other similar instructions, without taking regulatory action. The department shall notify the fiscal and appropriate policy*

1 committees of the Legislature of its intent to issue a provider
2 bulletin, manual, or other similar instruction, at least five days
3 prior to issuance. In addition, the department shall provide a
4 copy of any provider bulletin, manual, or other similar
5 instruction issued under this paragraph to the fiscal and
6 appropriate policy committees of the Legislature. The
7 department shall consult with interested parties and appropriate
8 stakeholders, regarding the implementation and ongoing
9 administration of this article.

10 (i) To the extent necessary to implement this article, the
11 department shall submit, by September 30, 2005, to the federal
12 Centers for Medicare and Medicaid Services proposed
13 amendments to the Medi-Cal state plan, including, but not
14 limited to, proposals to modify inpatient hospital payments to
15 designated public hospitals, modify the disproportionate share
16 hospital payment program, and provide for supplemental
17 Medi-Cal reimbursement for certain physician and nonphysician
18 professional services. The department shall, subsequent to
19 September 30, 2005, submit any additional proposed
20 amendments to the Medi-Cal state plan that may be required by
21 the federal Centers for Medicare and Medicaid Services, to the
22 extent necessary to implement this article.

23 (j) Each designated public hospital shall implement a
24 comprehensive process to offer individuals who receive services
25 at the hospital the opportunity to apply for the Medi-Cal
26 program, the Healthy Families Program, or any other public
27 health coverage program for which the individual may be
28 eligible, and shall refer the individual to those programs, as
29 appropriate.

30 (k) In any judicial challenge of the provisions of this article,
31 nothing shall create an obligation on the part of the state to fund
32 any payment from state funds due to the absence or shortfall of
33 federal funding.

34 14166.3. (a) During the demonstration project term, payment
35 adjustments to disproportionate share hospitals shall not be
36 made pursuant to Section 14105.98. Payment adjustments to
37 disproportionate share hospitals shall be made solely in
38 accordance with this article.

39 (b) Except as otherwise provided in this article, the
40 department shall continue to make all eligibility determinations

1 *and perform all payment adjustment amount computations under*
2 *the disproportionate share hospital payment adjustment program*
3 *pursuant to Section 14105.98 and pursuant to the*
4 *disproportionate share hospital provisions of the Medicaid state*
5 *plan in effect as of the 2004-05 state fiscal year.*

6 *(c) (1) Notwithstanding Section 14105.98, the federal*
7 *disproportionate share hospital allotment specified for*
8 *California under Section 1396r-4(f) of Title 42 of the United*
9 *States Code for each of federal fiscal years 2006 to 2010,*
10 *inclusive, shall be distributed solely among the following*
11 *hospitals:*

12 *(A) Eligible hospitals, as determined pursuant to Section*
13 *14105.98 for each project year in which the particular federal*
14 *fiscal year commences, which meet the definition of a public*
15 *hospital as specified in paragraph (25) of subdivision (a) of*
16 *Section 14105.98.*

17 *(B) Hospitals that are licensed to the University of California,*
18 *which meet the requirements set forth in Section 1396r-4(d) of*
19 *Title 42 of the United States Code.*

20 *(2) The federal disproportionate share hospital allotment for*
21 *each of the federal fiscal years 2006 to 2010, inclusive, shall be*
22 *aligned with the project year in which the applicable federal*
23 *fiscal year commences. The payment adjustment year, as used*
24 *within the meaning of paragraph (6) of subdivision (a) of Section*
25 *14105.98, shall be the corresponding project year.*

26 *(3) Uncompensated Medi-Cal and uninsured costs as reported*
27 *pursuant to Section 14166.8, shall be used by the department as*
28 *the basis for determining the hospital-specific disproportionate*
29 *share hospital payment limits required by Section 1396r-4(g) of*
30 *Title 42 of the United States Code for the hospitals described in*
31 *paragraph (1).*

32 *(4) The distribution of the federal disproportionate share*
33 *hospital allotment to hospitals described in paragraph (1) shall*
34 *satisfy the state's payment obligations, if any, with respect to*
35 *those hospitals under Section 1396r-4 of Title 42 of the United*
36 *States Code.*

37 *(d) Eligible hospitals, as determined pursuant to Section*
38 *14105.98 for each project year, which are nonpublic hospitals,*
39 *nonpublic-converted hospitals, and converted hospitals, as those*
40 *terms are defined in paragraphs (26), (27) and (28), respectively,*

1 of subdivision (a) of Section 14105.98, shall receive Medi-Cal
2 disproportionate share hospital replacement payment
3 adjustments pursuant to Section 14166.11. The payment
4 adjustments so provided shall satisfy the state's payment
5 obligations, if any, with respect to those hospitals under Section
6 1396r-4 of Title 42 of the United States Code. The federal share
7 of these payments shall not be claimed from the federal
8 disproportionate share hospital allotment described in
9 subdivision (c).

10 (e) The nonfederal share of payments described in
11 subdivisions (c) and (d) shall be derived from the following
12 sources:

13 (1) With respect to the payments described in paragraph (1) of
14 subdivision (c) that are made to designated public hospitals, the
15 nonfederal share shall consist of certified public expenditures
16 described in subparagraphs (A) and (C) of paragraph (2) of
17 subdivision (a) of Section 14166.9, and intergovernmental
18 transfer amounts described in paragraph (2) of subdivision (d) of
19 Section 14166.6.

20 (2) With respect to the payments described in paragraph (1) of
21 subdivision (c) that are made to nondesignated public hospitals,
22 the nonfederal share shall consist solely of state General Fund
23 appropriations.

24 (3) With respect to the payments described in subdivision (d),
25 the nonfederal share shall consist of state General Fund
26 appropriations.

27 (f) (1) During the term of the demonstration project, for the
28 2005-06 state fiscal year and any subsequent state fiscal years,
29 no public entity shall be obligated to make any
30 intergovernmental transfer pursuant to Section 14163, and all
31 transfer amount determinations for those state fiscal years shall
32 be suspended. However, during the demonstration project term,
33 intergovernmental transfers shall be made with respect to the
34 disproportionate share hospital payment adjustments made in
35 accordance with paragraph (2) of subdivision (d) of Section
36 14166.6.

37 (2) During the term of the demonstration project, for the
38 2005-06 state fiscal year and any subsequent state fiscal years,
39 transfer amounts from the Medi-Cal Inpatient Payment
40 Adjustment Fund to the Health Care Deposit Fund, as provided

1 *for pursuant to paragraph (2) of subdivision (d) of Section*
2 *14163, are hereby reduced to zero. Unless otherwise specified in*
3 *this article, this paragraph shall be disregarded for purposes of*
4 *the calculations made under Section 14105.98 during the*
5 *demonstration project.*

6 *14166.35. (a) For each project year, designated public*
7 *hospitals shall be eligible to receive the following:*

8 *(1) Payments for Medi-Cal inpatient hospital services and*
9 *supplemental payments for physician and nonphysician*
10 *practitioner services, as specified in Section 14166.4.*

11 *(2) Disproportionate share hospital payment adjustments, as*
12 *specified in Section 14166.6.*

13 *(3) Safety net care pool funding, as specified in Section*
14 *14166.7.*

15 *(4) Stabilization funding, as specified in Section 14166.75.*

16 *(5) Grants to distressed hospitals as negotiated by the*
17 *California Medical Assistance Commission pursuant to Section*
18 *14199.23.*

19 *(b) Payments under this section shall be in addition to other*
20 *payments that may be made in accordance with law.*

21 *14166.4. (a) Notwithstanding Article 2.6 (commencing with*
22 *Section 14081), and any other provision of law, fee-for-service*
23 *payments to the designated public hospitals for inpatient services*
24 *to Medi-Cal beneficiaries shall be governed by this section. Each*
25 *of the designated public hospitals shall receive as payment for*
26 *inpatient hospital services provided to Medi-Cal beneficiaries*
27 *during any project year, the hospital's allowable costs incurred*
28 *in providing those services, multiplied by the federal medical*
29 *assistance percentage. These costs shall be determined, certified,*
30 *and claimed in accordance with Sections 14166.8 and 14166.9.*
31 *All Medicaid federal financial participation received by the state*
32 *for the certified public expenditures of the hospital, or the*
33 *governmental entity with which the hospital is affiliated, for*
34 *inpatient hospital services rendered to Medi-Cal beneficiaries*
35 *shall be paid to the hospital.*

36 *(b) With respect to each project year, each of the designated*
37 *public hospitals shall receive an interim payment for each day of*
38 *inpatient hospital services rendered to Medi-Cal beneficiaries*
39 *based upon claims filed by the hospital in accordance with the*
40 *claiming process set forth in Division 3 (commencing with*

1 Section 50000) of Title 22 of the California Code of Regulations.
2 The interim per diem payment amount shall be based on
3 estimated costs, which shall be derived from statistical data from
4 the following sources and which shall be multiplied by the
5 federal medical assistance percentage:

6 (1) For allowable costs reflected in the Medicare cost report,
7 the cost report most recently audited by the hospital's Medicare
8 fiscal intermediary adjusted by a trend factor to reflect increased
9 costs, as approved by the federal Centers for Medicare and
10 Medicaid Services for the demonstration project.

11 (2) For allowable costs not reflected in the Medicare cost
12 report, each hospital shall provide hospital-specific cost data
13 requested by the department. The department shall adjust the
14 data by a trend factor as necessary to reflect project year
15 allowable costs.

16 (c) Until the department commences making payments
17 pursuant to subdivision (b), the department may continue to
18 make fee-for-service, per diem payments to the designated public
19 hospitals, pursuant to the selective provider contracting program
20 in accordance with Article 2.6 (commencing with Section 14081),
21 for services rendered on and after July 1, 2005, for a period of
22 120 days following the award of this demonstration. Per diem
23 payments shall be adjusted retroactively to the amounts
24 determined under the payment methodology prescribed in this
25 article.

26 (d) No later than April 1 following the end of the project year,
27 the department shall undertake an interim reconciliation of
28 payments made pursuant to subdivisions (a) to (c), inclusive,
29 based on Medicare and other cost and statistical data submitted
30 by the hospital for the project year and shall adjust payments to
31 the hospital accordingly.

32 (e) (1) The designated public hospitals shall receive
33 supplemental reimbursement for the costs incurred for physician
34 and nonphysician practitioner services provided to Medi-Cal
35 beneficiaries who are patients of the hospital, to the extent that
36 those services are not claimed as inpatient hospital services
37 under the hospital's Medi-Cal provider number and the costs of
38 those services are not otherwise recognized under subdivision
39 (a).

1 (2) *Expenditures made by the designated public hospital, or a*
2 *governmental entity with which it is affiliated, for the services*
3 *identified in paragraph (1) shall be reduced by any payments*
4 *received pursuant to Article 7 (commencing with Section 51501)*
5 *of Title 22 of the California Code of Regulations. The remainder*
6 *shall be certified by the appropriate public official and claimed*
7 *by the department in accordance with Sections 14166.8 and*
8 *14166.9. These expenditures may include any of the following:*

9 (A) *Compensation to physicians or nonphysician practitioners*
10 *pursuant to contracts with the designated public hospital.*

11 (B) *Salaries and related costs for employed physicians and*
12 *nonphysician practitioners.*

13 (C) *The costs of interns, residents, and related teaching*
14 *physician and supervision costs.*

15 (D) *Administrative costs associated with the services*
16 *described in subparagraphs (A) to (C), inclusive, including*
17 *billing costs.*

18 (3) *Designated public hospitals shall receive federal funding*
19 *based on the expenditures identified and certified in paragraph*
20 *(2). All federal financial participation received by the department*
21 *for the certified public expenditures identified in paragraph (2)*
22 *shall be paid to the designated public hospital, or a*
23 *governmental entity with which it is affiliated.*

24 (4) *To the extent that the supplemental reimbursement*
25 *received under this subdivision relates to services provided to*
26 *hospital inpatients, the reimbursement shall be applied in*
27 *determining whether the designated public hospital has received*
28 *full baseline payments for purposes of paragraph (1) of*
29 *subdivision (b) of Section 14166.21.*

30 (5) *Supplemental reimbursement under this subdivision may*
31 *be distributed as part of the interim payments under subdivision*
32 *(b), on a per-visit basis, on a per-procedure basis, or on any*
33 *other federally permissible basis.*

34 (6) *The department shall submit for federal approval, by*
35 *September 30, 2005, a proposed amendment to the Medi-Cal*
36 *state plan to implement this subdivision, retroactive to July 1,*
37 *2005, to the extent permitted by the federal Centers for Medicare*
38 *and Medicaid Services. If necessary to obtain federal approval,*
39 *the department may limit the application of this subdivision to*
40 *costs determined allowable by the federal Centers for Medicare*

1 *and Medicaid Services. If federal approval is not obtained, this*
2 *subdivision shall not be implemented.*

3 *14166.5. (a) With respect to each project year, the director*
4 *shall determine a baseline funding amount for each designated*
5 *public hospital. A hospital's baseline funding amount shall be an*
6 *amount equal to the total amount paid to the hospital for*
7 *inpatient hospital services rendered to Medi-Cal beneficiaries*
8 *during the 2004-05 fiscal year, including the following Medi-Cal*
9 *payments, but excluding payments received under the Medi-Cal*
10 *Specialty Mental Health Services Consolidation Program:*

11 *(1) Base payments under the selective provider contracting*
12 *program as provided for under Article 2.6 (commencing with*
13 *Section 14081).*

14 *(2) Emergency Services and Supplemental Payments Fund*
15 *payments as provided for under Section 14085.6.*

16 *(3) Medi-Cal Medical Education Supplemental Payment Fund*
17 *payments and Large Teaching Emphasis Hospital and Children's*
18 *Hospital Medi-Cal Medical Education Supplemental Payment*
19 *Fund payments as provided for under Sections 14085.7 and*
20 *14085.8, respectively.*

21 *(4) Disproportionate share hospital payment adjustments as*
22 *provided for under Section 14105.98.*

23 *(5) Administrative day payments as provided for under Section*
24 *51542 of Title 22 of the California Code of Regulations.*

25 *(b) The baseline funding amount for each designated public*
26 *hospital shall reflect a reduction for the total amount of*
27 *intergovernmental transfers made pursuant to Sections 14085.6,*
28 *14085.7, 14085.8, 14085.9, and 14163 for the 2004-05 state*
29 *fiscal year by the designated public hospital, or the governmental*
30 *entity with which it is affiliated.*

31 *(c) With respect to each project year beginning after the*
32 *2005-06 project year, the department shall determine an adjusted*
33 *baseline funding amount for each designated public hospital to*
34 *reflect any increase or decrease in volume. The adjustment for*
35 *designated public hospitals shall be calculated as follows:*

36 *(1) Applying the cost-finding methodology approved under the*
37 *demonstration project, and applying accounting and reporting*
38 *practices consistent with those applied in paragraph (2), the*
39 *department shall determine the total allowable costs incurred by*
40 *the hospital, or the governmental entity with which it is affiliated,*

1 *in rendering hospital services that would be recognized under the*
2 *demonstration project to Medi-Cal beneficiaries and the*
3 *uninsured during the 2004-05 state fiscal year.*

4 *(2) Applying the cost-finding methodology approved under the*
5 *demonstration project, and applying accounting and reporting*
6 *practices consistent with those applied in paragraph (1), the*
7 *department shall determine the total allowable costs incurred by*
8 *the hospital, or the governmental entity with which it is affiliated,*
9 *in rendering hospital services under the demonstration project to*
10 *Medi-Cal beneficiaries and the uninsured during the state fiscal*
11 *year preceding the project year for which the volume adjustment*
12 *is being calculated.*

13 *(3) The department shall:*

14 *(A) Calculate the difference between the amount determined*
15 *under paragraph (1) and the amount determined under*
16 *paragraph (2).*

17 *(B) Determine the percentage increase or decrease by dividing*
18 *the difference in subparagraph (A) by the amount in paragraph*
19 *(1).*

20 *(C) Apply the percentage determined in subparagraph (B) to*
21 *that amount that results from the hospital's baseline funding*
22 *amount determined under subdivision (a) as adjusted by*
23 *subdivision (b) minus the amount of disproportionate share*
24 *hospital payments in paragraph (4) of subdivision (a).*

25 *(4) The designated public hospital's adjusted baseline for the*
26 *project year is the amount determined for the hospital in*
27 *subdivision (a) as adjusted by subdivision (b), plus the amount in*
28 *subparagraph (C) of paragraph (3).*

29 *(5) Notwithstanding paragraphs (3) and (4), when, as*
30 *determined by the department, in consultation with the*
31 *designated public hospital, there has been a material reduction*
32 *in patient services at the designated public hospital during the*
33 *project year, and the reduction has resulted in a diminution of*
34 *access for Medi-Cal and uninsured patients and a related*
35 *reduction in total costs at the designated public hospital of at*
36 *least 20 percent, the department may utilize current or adjusted*
37 *data that are reflective of the diminution of access, even if the*
38 *data are not annual data, to determine the hospital's adjusted*
39 *baseline amount.*

1 (d) *The aggregate designated public hospital baseline funding*
2 *amount for each project year shall be the sum of all baseline*
3 *funding amounts determined under subdivisions (a) and (b), as*
4 *adjusted in subdivision (c), as appropriate, for all designated*
5 *public hospitals.*

6 (e) (1) *The adjustments set forth in subdivision (c) of Section*
7 *14166.13 and in subdivision (c) shall not apply if either of the*
8 *following conditions exist:*

9 (A) *The difference between the percentage adjustment in*
10 *subparagraph (B) of paragraph (3) of subdivision (c) of this*
11 *section, computed in the aggregate for designated public*
12 *hospitals, and subparagraph (B) of paragraph (3) of subdivision*
13 *(c) of Section 14166.13 is greater than 3 percentage points.*

14 (B) *The stabilization funding amount from the Health Care*
15 *Support Fund, established pursuant to Section 14166.21, as*
16 *determined in Section 14166.20 for any project year is less than*
17 *one hundred fifty-three million dollars (\$153,000,000).*

18 (2) *Notwithstanding paragraph (1), the department may apply*
19 *the adjustments set forth in paragraph (5) of subdivision (c).*

20 14166.6. (a) *For the 2005-06 project year and subsequent*
21 *project years, each designated public hospital described in*
22 *subdivision (c) of Section 14166.3 shall be eligible to receive an*
23 *allocation of federal Medicaid funding from the applicable*
24 *federal disproportionate share hospital allotment pursuant to this*
25 *section. The department shall establish the allocations in a*
26 *manner that maximizes federal Medicaid funding to the state*
27 *during the term of the demonstration project, and shall consider,*
28 *at a minimum, all of the following factors, taking into account all*
29 *other payments to each hospital under this article:*

30 (1) *The optimal use of intergovernmental transfer-funded*
31 *payments described in subdivision (d).*

32 (2) *Each hospital's pro rata share of the applicable aggregate*
33 *designated public hospital baseline funding amount described in*
34 *subdivision (d) of Section 14166.5.*

35 (3) *That the allocation under this section, in combination with*
36 *the federal share of certified public expenditures for Medicaid*
37 *inpatient hospital services for the project year determined under*
38 *subdivision (a) of Section 14166.4, any supplemental*
39 *reimbursement for professional services rendered to hospital*
40 *inpatients determined for the project year under subdivision (e)*

1 of Section 14166.4, and the distribution of safety net care pool
2 funds from the Health Care Support Fund determined under
3 subdivision (a) of Section 14166.7, shall not exceed the baseline
4 funding amount or adjusted baseline funding amount, as
5 appropriate, for the hospital.

6 (4) Minimizing the need to redistribute federal funds that are
7 based on the certified public expenditures of designated public
8 hospitals as described in subdivision (c).

9 (b) Each designated public hospital shall receive its allocation
10 of federal disproportionate share hospital payments in one or
11 both of the following forms:

12 (1) Distributions from the Demonstration Disproportionate
13 Share Hospital Fund established pursuant to subdivision (d) of
14 Section 14166.9, consisting of federal funds claimed and
15 received by the department, pursuant to subparagraphs (A) and
16 (C) of paragraph (2) of subdivision (a) of Section 14166.9 based
17 on designated public hospitals' certified public expenditures up
18 to 100 percent of uncompensated Medi-Cal and uninsured costs.

19 (2) Intergovernmental transfer-funded payments, as described
20 in subdivision (d). For purposes of determining whether the
21 hospital has received its allocation of federal disproportionate
22 share hospital payments established under this section, only the
23 federal share of intergovernmental transfer-funded payments
24 shall be considered.

25 (c) The distributions described in paragraph (1) of subdivision
26 (b) may be made to a designated public hospital independent of
27 the amount of uncompensated Medi-Cal and uninsured costs
28 certified as public expenditures by that hospital pursuant to
29 Section 14166.8, provided that, in accordance with the Special
30 Terms and Conditions for the demonstration project, the
31 recipient hospital does not return any portion of the funds
32 received to any unit of government, excluding amounts recovered
33 by the state or federal government.

34 (d) Designated public hospitals that meet the requirement of
35 Section 1396r-4(b)(1)(A) of Title 42 of the United States Code
36 regarding the Medicaid inpatient utilization rate or Section
37 1396r-4(b)(1)(B) of Title 42 of the United States Code regarding
38 the low-income utilization rate, may receive intergovernmental
39 transfer-funded disproportionate share hospital payments as
40 follows:

1 (1) The department shall establish the amount of the hospital's
2 intergovernmental transfer-funded disproportionate share
3 hospital payment. The total amount of that payment, consisting of
4 the federal and nonfederal components, shall in no case exceed
5 that amount equal to 75 percent of the hospital's uncompensated
6 Medi-Cal and uninsured costs of hospital services, determined in
7 accordance with the Special Terms and Conditions for the
8 demonstration project.

9 (2) A transfer amount shall be determined for each hospital
10 that is subject to this subdivision, equal to the nonfederal share
11 of the payment amount established for the hospital pursuant to
12 paragraph (1). The transfer amount so determined shall be paid
13 by the hospital, or the public entity with which the hospital is
14 affiliated, and deposited into the Medi-Cal Inpatient Payment
15 Adjustment Fund established pursuant to subdivision (b) of
16 Section 14163. The sources of funds utilized for the transfer
17 amount shall not include impermissible provider taxes or
18 donations as defined under Section 1396b(w) of Title 42 of the
19 United States Code or other federal funds. For this purpose,
20 federal funds do not include patient care revenue received as
21 payment for services rendered under programs such as Medicare
22 or Medicaid.

23 (3) The department shall pay the amounts established
24 pursuant to paragraph (1) to each hospital using the transfer
25 amounts deposited pursuant to paragraph (2) as the nonfederal
26 share of those payments. The total intergovernmental
27 transfer-funded payment amount, consisting of the federal and
28 nonfederal share, paid to a hospital shall be retained by the
29 hospital in accordance with the Special Terms and Conditions
30 for the demonstration project.

31 (e) The total federal disproportionate share hospital funds
32 allocated under this section to designated public hospitals with
33 respect to each project year, in combination with the federal
34 share of disproportionate share hospital payment adjustments
35 made to nondesignated public hospitals pursuant to Section
36 14166.16 for the same project year, shall not exceed the
37 applicable federal disproportionate share hospital allotment.

38 (f) Each designated public hospital shall receive quarterly
39 interim payments of its disproportionate share hospital
40 allocation during the project year. The determinations set forth

1 *in subdivisions (a) to (e), inclusive, shall be made on an interim*
 2 *basis prior to the start of each project year, except that, with*
 3 *respect to the 2005-06 project year, the interim determinations*
 4 *shall be made prior to January 1, 2006. The department shall use*
 5 *the same cost and statistical data used in determining the interim*
 6 *payments for Medi-Cal inpatient hospital services under Section*
 7 *14166.4, and available payments and uncompensated and*
 8 *uninsured cost data, including data from the Medi-Cal paid*
 9 *claims file and the hospital's books and records, for the*
 10 *corresponding period.*

11 *(g) No later than April 1 following the end of the project year,*
 12 *the department shall undertake an interim reconciliation of*
 13 *payments based on Medicare and other cost, payment, and*
 14 *statistical data submitted by the hospital for the project year, and*
 15 *shall adjust payments to the hospital accordingly.*

16 *(h) Each designated public hospital shall receive its*
 17 *disproportionate share hospital allocation, as computed pursuant*
 18 *to subdivisions (a) to (e), inclusive, subject to final audits of all*
 19 *applicable Medicare and other cost, payment, and statistical*
 20 *data for the project year.*

21 *14166.7. (a) (1) With respect to each project year,*
 22 *designated public hospitals, or governmental entities with which*
 23 *they are affiliated, shall be eligible to receive safety net care pool*
 24 *payments from the Health Care Support Fund established*
 25 *pursuant to Section 14166.21. The total amount of these*
 26 *payments, in combination with the federal share of certified*
 27 *public expenditures for Medicaid inpatient hospital services*
 28 *determined for the project year under subdivision (a) of Section*
 29 *14166.4, any supplemental reimbursement for physician and*
 30 *nonphysician practitioner services rendered to hospital*
 31 *inpatients determined for the project year under subdivision (e)*
 32 *of Section 14166.4, and the federal disproportionate share*
 33 *hospital allocation determined under Section 14166.6, shall not*
 34 *exceed the hospital's baseline funding amount or adjusted*
 35 *baseline funding amount, as appropriate.*

36 *(2) The department shall establish the amount of the safety net*
 37 *care pool payment described in paragraph (1) for each*
 38 *designated public hospital in a manner that maximizes federal*
 39 *Medicaid funding to the state during the term of the*
 40 *demonstration project.*

1 (3) *A safety net care pool payment amount may be paid to a*
2 *designated public hospital, or governmental entity with which it*
3 *is affiliated, pursuant to this section independent of the amount of*
4 *uncompensated Medi-Cal and uninsured costs that is certified as*
5 *public expenditures pursuant to Section 14166.8, provided that,*
6 *in accordance with the Special Terms and Conditions for the*
7 *demonstration project, the recipient hospital does not return any*
8 *portion of the funds received to any unit of government,*
9 *excluding amounts recovered by the state or federal government.*

10 (4) *In establishing the amount to be paid to each designated*
11 *public hospital under this subdivision, the department shall*
12 *minimize to the extent possible the redistribution of federal funds*
13 *that are based on certified public expenditures as described in*
14 *paragraph (3).*

15 (b) *Each designated public hospital, or governmental entity*
16 *with which it is affiliated, shall receive the amount established*
17 *pursuant to subdivision (a) in quarterly interim payments during*
18 *the project year. The determination of the interim payments shall*
19 *be made on an interim basis prior to the start of each project*
20 *year, except that, with respect to the 2005-06 project year, the*
21 *determination of the interim payments shall be made prior to*
22 *January 1, 2006. The department shall use the same cost and*
23 *statistical data that is used in determining the interim payments*
24 *for Medi-Cal inpatient hospital services under Section 14166.4*
25 *and for the disproportionate share hospital allocations under*
26 *Section 14166.6, for the corresponding period.*

27 (c) (1) *No later than April 1 following the end of the project*
28 *year, the department shall undertake an interim reconciliation of*
29 *the payment amount established pursuant to subdivision (a) for*
30 *each designated public hospital using Medicare and other cost,*
31 *payment, and statistical data submitted by the hospital for the*
32 *project year, and shall adjust payments to the hospital*
33 *accordingly.*

34 (2) *The final payment to a designated public hospital for*
35 *purposes of subdivision (b) and paragraph (1) of this*
36 *subdivision, shall be subject to final audits of all applicable*
37 *Medicare and other cost, payment, and statistical data for the*
38 *project year, and the distribution priorities set forth in Section*
39 *14166.20.*

(d) (1) Each designated public hospital, or governmental entity with which it is affiliated, shall be eligible to receive additional safety net care pool payments above the baseline funding amount or adjusted baseline funding amount, as appropriate, from the Health Care Support Fund, established pursuant to Section 14166.21, for the project year in accordance with the stabilization funding determination for the hospital made pursuant to Section 14166.75.

(2) Payment of the additional safety net care pool amounts shall be subject to the distribution priorities set forth in Section 14166.21.

14166.75. (a) For services provided during the 2005-06 project year, the amount allocated to designated public hospitals pursuant to subparagraph (A) of paragraph (2) and subparagraph (A) of paragraph (5) of subdivision (b) of Section 14166.20 shall be allocated, in accordance with this section, among the designated public hospitals and paid as direct grants, which shall not constitute Medi-Cal payments.

(b) The baseline funding amount, as determined under Section 14166.5, for San Mateo Medical Center shall be increased by eight million dollars (\$8,000,000) for purposes of this section.

(c) The following payments shall be made from the amount identified in subdivision (a), in addition to any other payments due to the University of California hospitals and health system and County of Los Angeles hospitals under this section:

(1) The lower of eleven million dollars (\$11,000,000) or 3.67 percent of the amount identified in subdivision (a) to the University of California Hospitals and health system.

(2) In the event that the one hundred eighty million dollars (\$180,000,000) identified in paragraph 41 of the Special Terms and Conditions for the demonstration project is available in the safety net care pool for the project year, the lower of twenty-three million (\$23,000,000) or 7.67 percent of the amount identified in subdivision (a) to the County of Los Angeles, Department of Health Services, hospitals. If an amount less than the one hundred eighty million dollars (\$180,000,000) is available during the project year, the amount determined under this paragraph shall be reduced proportionately.

1 (d) The amount identified in subdivision (a), as reduced by the
2 amounts identified in subdivision (c), shall be distributed among
3 the designated public hospitals as follows:

4 (1) Designated public hospitals that are donor hospitals, and
5 their associated donated certified public expenditures, shall be
6 identified as follows:

7 (A) An initial pro rata allocation of the amount subject to this
8 subdivision shall be made to each designated public hospital,
9 based upon the hospital's baseline funding amount determined
10 pursuant to Section 14166.5, and as further adjusted in
11 subdivision (b). This initial allocation shall be used for purposes
12 of the calculations under subparagraph (C) and paragraph (3).

13 (B) The federal financial participation amount arising from
14 the certified public expenditures of each designated public
15 hospital, including the expenditures of the governmental entity,
16 nonhospital clinics, and other provider types to which it is
17 affiliated, that were claimed by the department from the federal
18 disproportionate share hospital allotment pursuant to
19 subparagraphs (A) and (C) of paragraph (2) of subdivision (a) of
20 Section 14166.9, and from the safety net care pool funds
21 pursuant to paragraph (3) of subdivision (a) of Section 14166.9,
22 shall be determined.

23 (C) The amount of federal financial participation received by
24 each designated public hospital, and by the governmental entity,
25 nonhospital clinics, and other provider types to which it is
26 affiliated, based on certified public expenditures from the federal
27 disproportionate share hospital allotment pursuant to paragraph
28 (1) of subdivision (b) of Section 14166.6, and from the safety net
29 care pool payments pursuant to subdivision (a) of Section
30 14166.7 shall be identified. The resulting amount shall be
31 increased by amounts distributed to the hospital pursuant to
32 subdivision (c) of this section, paragraph (1) of subdivision (b) of
33 Section 14166.20, and the initial allocation determined for the
34 hospitals in subparagraph (A).

35 (D) If the amount in subparagraph (B) is greater than the
36 amount determined in subparagraph (C), the hospital is a donor
37 hospital, and the difference between the two amounts is deemed
38 to be that donor hospital's associated donated certified public
39 expenditures amount.

1 (2) Seventy percent of the total amount subject to this
2 subdivision shall be allocated pro rata among the designated
3 public hospitals based upon each hospital's baseline funding
4 amount determined pursuant to Section 14166.5, and as further
5 adjusted in subdivision (b).

6 (3) The lesser of the remaining 30 percent of the total amount
7 subject to this subdivision or the total amounts of donated
8 certified public expenditures for all donor hospitals, shall be
9 distributed pro rata among the donor hospitals based upon the
10 donated certified public expenditures amount determined for
11 each donor hospital. Any amounts not distributed pursuant to
12 this paragraph shall be distributed in accordance with
13 paragraph (2).

14 (e) The department shall consult with designated public
15 hospital representatives regarding the appropriate distribution of
16 stabilization funding before stabilization funds are allocated and
17 paid to hospitals. No later than 30 days after this consultation,
18 the department shall issue a final allocation of stabilization
19 funding under this section that shall not be modified for any
20 reason other than mathematical errors or mathematical
21 omissions on the part of the department.

22 14166.8. (a) Within five months after the end of each project
23 year, each of the designated public hospitals shall submit to the
24 department all of the following reports:

25 (1) The hospital's Medicare cost report for the project year.

26 (2) Other cost reporting and statistical data necessary for the
27 determination of amounts due the hospital under the
28 demonstration project, as requested by the department.

29 (b) For each project year, the reports shall identify all of the
30 following:

31 (1) The costs incurred in providing inpatient hospital services
32 to Medi-Cal beneficiaries on a fee-for-service basis and
33 physician and nonphysician practitioner services costs, as
34 identified in subdivision (e) of Section 14166.4.

35 (2) The amount of uncompensated costs incurred in providing
36 hospital services to Medi-Cal beneficiaries, including managed
37 care enrollees.

38 (3) The costs incurred in providing hospital services to
39 uninsured individuals.

1 (c) Each designated public hospital, or governmental entity
2 with which it is affiliated, that operates nonhospital clinics or
3 provides physician, nonphysician practitioner, or other health
4 care services that are not identified as hospital services under
5 the Special Terms and Conditions for the demonstration project,
6 may report and certify all, or a portion, of the uncompensated
7 Medi-Cal and uninsured costs of the services furnished. The
8 amount of these uncompensated costs to be claimed by the
9 department shall be determined by the department in
10 consultation with the governmental entity so as to optimize the
11 level of claimable federal Medicaid funding.

12 (d) Reports submitted under this section shall include all
13 allowable costs.

14 (e) The appropriate public official shall certify to all of the
15 following:

16 (1) The accuracy of the reports required under this section.

17 (2) That the expenditures to meet the reported costs comply
18 with Section 433.51 of Title 42 of the Code of Federal
19 Regulations.

20 (3) That the sources of funds used to make the expenditures
21 certified under this section do not include impermissible provider
22 taxes or donations as defined under Section 1396b(w) of Title 42
23 of the United States Code or other federal funds. For this
24 purpose, federal funds do not include patient care revenue
25 received as payment for services rendered under programs such
26 as Medicare or Medicaid.

27 (f) The certification of public expenditures made pursuant to
28 this section shall be based on a schedule established by the
29 department. The director may require the designated public
30 hospitals to submit quarterly estimates of anticipated
31 expenditures, if these estimates are necessary to obtain interim
32 payments of federal Medicaid funds. All reported expenditures
33 shall be subject to reconciliation to allowable costs, as
34 determined in accordance with applicable demonstration project
35 implementing documents.

36 (g) Except as provided in subdivision (c), the director shall
37 seek Medicaid federal financial participation for all certified
38 public expenditures recognized under the demonstration project
39 and reported by the designated public hospitals, to the extent
40 consistent with Section 14166.9.

1 (h) Governmental or public entities other than those that
2 operate a designated public hospital may, at the request of a
3 governmental or public entity, certify uncompensated Medi-Cal
4 and uninsured costs in accordance with this section, subject to
5 the department's discretion and prior approval of the federal
6 Centers for Medicare and Medicaid Services.

7 14166.9. (a) The department, in consultation with the
8 designated public hospitals, shall determine the mix of sources of
9 federal funds for payments to the designated public hospitals in a
10 manner that provides baseline funding to hospitals and
11 maximizes federal Medicaid funding to the state during the term
12 of the demonstration project. Federal funds shall be claimed
13 according to the following priorities:

14 (1) The certified public expenditures of the designated public
15 hospitals for inpatient hospital services and physician and
16 nonphysician practitioner services, as identified in subdivision
17 (e) of Section 14166.4, rendered to Medi-Cal beneficiaries.

18 (2) Federal disproportionate share hospital allotment, subject
19 to the federal-hospital specific limit, in the following order:

20 (A) Those hospital expenditures that are eligible for federal
21 financial participation only from the federal disproportionate
22 share hospital allotment.

23 (B) Payments funded with intergovernmental transfers,
24 consistent with the requirements of the demonstration project, up
25 to the hospital's baseline funding amount or adjusted baseline
26 funding amount, as appropriate, for the project year.

27 (C) Any other certified public expenditures for hospital
28 services that are eligible for federal financial participation from
29 the federal disproportionate share hospital allotment.

30 (3) Safety net care pool funds, using the optimal combination
31 of hospital certified public expenditures and certified public
32 expenditures of a hospital that operates nonhospital clinics or
33 provides physician, nonphysician practitioner, or other health
34 care services that are identified as hospital services under the
35 Special Terms and Conditions for the demonstration project.

36 (4) Health care expenditures of the state that represent
37 alternate state funding mechanisms approved by the federal
38 Centers for Medicare and Medicaid Services under the
39 demonstration project as set forth in Section 14166.22.

1 (b) The department shall implement these priorities, to the
2 extent possible, in a manner that minimizes the redistribution of
3 federal funds that are based on the certified public expenditures
4 of the designated public hospitals.

5 (c) The department may adjust the claiming priorities to the
6 extent that these adjustments result in additional federal
7 Medicaid funding during the term of the demonstration project or
8 facilitate the objectives of subdivision (b).

9 (d) There is hereby established in the State Treasury the
10 “Demonstration Disproportionate Share Hospital Fund,”
11 consisting of all federal funds received by the department with
12 respect to the certified public expenditures claimed pursuant to
13 subparagraphs (A) and (C) of paragraph (2) of subdivision (a).
14 Notwithstanding Section 13340 of the Government Code, the
15 fund shall be continuously appropriated to the department solely
16 for the purposes specified in Section 14166.6.

17 (e) All federal safety net care pool funds claimed and received
18 by the department based on health care expenditures incurred by
19 the designated public hospitals, or the governmental entities with
20 which they are affiliated, shall be deposited in the Health Care
21 Support Fund, established pursuant to Section 14166.21.

22 14166.10. (a) Payments to private hospitals under the
23 demonstration project shall include, as applicable, all of the
24 following:

25 (1) Payments under selective provider contracts with the
26 department negotiated by the California Medical Assistance
27 Commission in accordance with Article 2.6 (commencing with
28 Section 14081).

29 (2) Disproportionate share replacement payments under
30 Section 14166.11.

31 (3) Supplemental payments under Section 14166.12.

32 (4) Payments to distressed hospitals as negotiated by the
33 California Medical Assistance Commission pursuant to Section
34 14166.23.

35 (b) Payments under subdivision (a) shall be in addition to
36 other payments that may be made in accordance with law.

37 14166.11. (a) The department shall pay to each project year
38 private DSH hospital the amounts that would have been paid
39 under the disproportionate share hospital program using the

1 *formulas and methodology in effect for the 2004-05 fiscal year as*
2 *more specifically set forth in this section.*

3 *(b) For each project year, the department shall develop and*
4 *issue a tentative and final disproportionate share list in*
5 *accordance with Section 14105.98.*

6 *(c) For each project year, the department shall perform the*
7 *computations set forth in paragraphs (1) to (4), inclusive, and (6)*
8 *to (8), inclusive, of subdivision (am) and paragraphs (1) to (3),*
9 *inclusive, of subdivision (an) of Section 14105.98, subject to the*
10 *following:*

11 *(1) For purposes of these computations, the maximum state*
12 *disproportionate share hospital allotment for California for each*
13 *project year shall be the allotment effective during the federal*
14 *fiscal year beginning during the project year.*

15 *(2) All references to October 1 shall be deemed to be*
16 *references to July 1.*

17 *(3) Notwithstanding any other provision of law, the transfer*
18 *amounts for the Medi-Cal Inpatient Payment Adjustment Fund to*
19 *the Health Care Deposit Fund, as provided for pursuant to*
20 *paragraph (2) of subdivision (d) of Section 14163 shall be*
21 *deemed to be eighty-five million dollars (\$85,000,000) for*
22 *purposes of the computations under this subdivision.*

23 *(4) Notwithstanding any other provision of law, the payments*
24 *made under this section shall be treated as payment adjustments*
25 *made under Section 14105.98 for purposes of computing the*
26 *OBRA 1993 payment limitation, as defined in paragraph (24) of*
27 *subdivision (a) of Section 14105.98, the low-income utilization*
28 *rate, and all related computations.*

29 *(5) Subdivision (m) of Section 14105.98 shall apply to*
30 *payments made under this section.*

31 *(d) Interim payments shall be made for the first five months of*
32 *each project year as follows:*

33 *(1) Interim payments shall be made to each private hospital*
34 *identified on a tentative disproportionate share list for the*
35 *project year that was also on the final disproportionate share list*
36 *for the prior fiscal year. The interim payment amount per month*
37 *for each of these hospitals shall equal one-twelfth of the total*
38 *payments, excluding stabilization funds, made to the hospital for*
39 *the prior fiscal year under this section or under Section*
40 *14105.98. The interim payment amount may be adjusted to*

1 *reflect any changes in the total payment amounts, excluding*
2 *stabilization funds, projected to be made under this section for*
3 *the project year.*

4 *(2) The computation of interim payments described in this*
5 *subdivision shall be made promptly after the department issues*
6 *the tentative disproportionate share hospital list for the project*
7 *year.*

8 *(3) The first interim payment for a project year shall be made*
9 *to each hospital no later than 60 days after the issuance of the*
10 *tentative disproportionate share hospital list for that project year*
11 *and shall include the interim payment amounts for all prior*
12 *months in the project year. Subsequent interim payments for a*
13 *project year shall be made on the last checkwrite of each month*
14 *made by the Controller until interim payments for the first five*
15 *months of the project year have been made.*

16 *(4) The department may recover any interim payments for a*
17 *project year made under this subdivision to a hospital that is not*
18 *on the final disproportionate share hospital list for that project*
19 *year. These interim payments shall be considered an*
20 *overpayment. The department shall issue a demand for*
21 *repayment to a hospital at least 30 days prior to taking action to*
22 *recover the overpayment. After the 30-day period, the*
23 *department may recover the overpayment using any of the*
24 *methods set forth in Section 14115.5 or subdivision (c) of Section*
25 *14172.5. Any offset shall be subject to Section 14115.5 or*
26 *subdivision (d) of Section 14172.5. No other provision of Section*
27 *14172.5 shall be applicable with respect to the recovery of*
28 *overpayments under this subdivision. A hospital may appeal the*
29 *department's determination of an overpayment under this*
30 *subdivision pursuant to the appeal procedures set forth in*
31 *Sections 51016 to 51047, inclusive, of Title 22 of the California*
32 *Code of Regulations, and seek judicial review of the final*
33 *administrative decision pursuant to Section 14171, provided that*
34 *the only issues that may be raised in this appeal are whether the*
35 *hospital, but for inadvertent error by the department, was on the*
36 *final disproportionate share list for the project year and whether*
37 *the department's computation of the overpayment amount is*
38 *correct. If the hospital is reinstated on the final disproportionate*
39 *share list pursuant to Section 14105.98, the department shall*
40 *promptly refund any amount recovered under this paragraph.*

1 (e) *Tentative adjusted monthly payments shall be made for the*
2 *months of December through March of each project year to each*
3 *private hospital identified on the final disproportionate share*
4 *hospital list for the project year, computed and paid as follows:*

5 (1) *An adjusted payment amount shall be computed for each*
6 *hospital equal to the sum of the total payment adjustment amount*
7 *for the hospital computed pursuant to subdivision (am) of Section*
8 *14105.98, plus the supplemental lump-sum payment adjustment*
9 *amount computed pursuant to subdivision (an) of Section*
10 *14105.98, each as most recently computed by the department,*
11 *plus any applicable interim estimated stabilization funding*
12 *pursuant to subdivision (b) of Section 14166.14.*

13 (2) *A tentative adjusted monthly payment amount shall be*
14 *computed for each hospital equal to the adjusted payment*
15 *amount for the hospital, minus the aggregate interim payments*
16 *made to the hospital for the project year, divided by seven.*

17 (3) *The computation of tentative adjusted monthly payments*
18 *described in this subdivision shall be made promptly after the*
19 *department issues the final disproportionate share hospital list*
20 *for the project year.*

21 (4) *The first tentative adjusted monthly payment for a project*
22 *year shall be made to each hospital by January 15 or within 60*
23 *days after the issuance of the final disproportionate share*
24 *hospital list for the project year, whichever is later, and shall*
25 *include the tentative adjusted monthly payment amounts for all*
26 *prior months in the project year for which those payments are*
27 *due. Subsequent tentative adjusted monthly payments for a*
28 *project year shall be made on the last checkwrite of each month*
29 *made by the Controller until tentative adjusted monthly payments*
30 *for December through March of the project year have been*
31 *made.*

32 (f) *Three data corrected payments shall be made on the last*
33 *checkwrite of the month made by the Controller for the months of*
34 *April through June of each project year to each private hospital*
35 *identified on the final disproportionate share hospital list for the*
36 *project year, computed and paid as follows:*

37 (1) *An annual data corrected payment amount shall be*
38 *computed for each hospital equal to the sum of the total payment*
39 *adjustment amount for the hospital computed pursuant to*
40 *subdivision (am) of Section 14105.98, plus the supplemental*

1 *lump-sum payment adjustment amount computed pursuant to*
2 *subdivision (an) of Section 14105.98, each as most recently*
3 *computed by the department, plus any interim estimated*
4 *stabilization funding. The annual data corrected payment*
5 *amounts shall reflect data corrections, hospital closures, and*
6 *other revisions made by the department to the adjusted payment*
7 *amounts computed under paragraph (1) of subdivision (e).*

8 (2) *A monthly data corrected payment amount shall be*
9 *computed for each hospital equal to the annual data corrected*
10 *payment amount for the hospital, minus both the aggregate*
11 *interim payments made to the hospital for the project year and*
12 *the aggregate tentative adjusted monthly payments made to the*
13 *hospital, divided by three.*

14 (g) *Payment under subdivisions (d), (e), and (f) for a month*
15 *shall be made only to private hospitals open for patient care*
16 *through the 15th day of the month.*

17 (h) *The department shall compute a final adjusted payment*
18 *amount for each private hospital on the final disproportionate*
19 *share list for a project year after the completion of the project*
20 *year and the determination of the amount of stabilization funding*
21 *available to be paid under this section as follows:*

22 (1) *An amount shall be computed for each hospital equal to*
23 *the sum of the total payment adjustment amount for the hospital*
24 *computed pursuant to subdivision (am) of Section 14105.98, plus*
25 *the supplemental lump-sum payment adjustment amount*
26 *computed pursuant to subdivision (an) of Section 14105.98, each*
27 *as most recently computed by the department. These amounts*
28 *shall reflect data corrections, hospital closures, and other*
29 *revisions made by the department to the annual data corrected*
30 *payment amounts computed under paragraph (1) of subdivision*
31 *(f) in a manner that ensures that any payments not payable or*
32 *recouped are redistributed among hospitals eligible for a final*
33 *adjusted payment amount in accordance with the calculations*
34 *made pursuant to Section 14105.98.*

35 (2) *The department shall add to the amount computed for each*
36 *hospital under paragraph (1) a pro rata share of any*
37 *stabilization funding to be allocated and paid under this section,*
38 *allocated based on the amounts computed under paragraph (1).*

39 (3) *The department shall for each hospital for each project*
40 *year reconcile the total amount paid to the hospital for that*

1 *project year under subdivisions (d), (e), and (f) with the amount*
 2 *determined under paragraph (2). The department shall issue a*
 3 *report to each hospital setting forth the result of the*
 4 *reconciliation that shall include the department's computation,*
 5 *data, and identification of data sources. The department shall*
 6 *pay to the hospital any underpayment determined as a result of*
 7 *this reconciliation and collect from the hospital any overpayment*
 8 *determined as a result of this reconciliation pursuant to*
 9 *paragraph (4) of subdivision (d) of Section 14166.11.*

10 *(4) A hospital may seek to correct the department's data and*
 11 *computations under this section in accordance with the processes*
 12 *undertaken by the department to implement Section 14105.98 in*
 13 *effect during the 2004-05 state fiscal year.*

14 *(i) In accordance with the demonstration project, the*
 15 *following shall apply:*

16 *(1) Payments under this section shall satisfy the state's*
 17 *obligation to have a payment adjustment program for*
 18 *disproportionate share hospitals under Section 1923 of the*
 19 *Social Security Act (42 U.S.C. Sec. 1396r-4).*

20 *(2) Payments under this section and federal financial*
 21 *participation shall not be counted against the state's allotment of*
 22 *federal funding for Medicaid disproportionate share payment*
 23 *adjustments.*

24 *(j) (1) For purposes of this subdivision, "federal*
 25 *disproportionate share allotment" means the federal Medicaid*
 26 *disproportionate share hospital allotment specified for*
 27 *California under Section 1396r-4(f) of Title 42 of the United*
 28 *States Code.*

29 *(2) In the event any hospital, or any party on behalf of a*
 30 *hospital, shall initiate a case or proceeding in any state or*
 31 *federal court in which the hospital seeks any relief of any sort*
 32 *whatsoever, including, but not limited to, monetary relief,*
 33 *injunctive relief, declaratory relief, or a writ, based in whole or*
 34 *in part on a contention that the hospital is entitled to, or should*
 35 *receive any portion of, the federal disproportionate share*
 36 *hospital allotment for any or all of federal fiscal years 2006 to*
 37 *2010, inclusive, all of the following shall apply:*

38 *(A) No payments shall be made to the hospital pursuant to this*
 39 *section until the case or proceeding is finally resolved, including*
 40 *the final disposition of all appeals.*

1 (B) Any amount computed to be payable to the hospital
2 pursuant to this section for a project year shall be withheld by
3 the department and shall be paid to the hospital only after the
4 case or proceeding is finally resolved, including the final
5 disposition of all appeals, and only if the case or proceeding
6 does not result in any amount being paid or payable to the
7 hospital from the federal disproportionate share hospital
8 allotment for any portion of the project year.

9 (C) The hospital shall become ineligible to receive any amount
10 pursuant to this section for any project year for which it is
11 determined that the hospital is entitled to be paid any portion of
12 the federal disproportionate share hospital allotment.

13 (D) Any amount that would have been payable to the hospital
14 pursuant to this section, but is not paid to the hospital because
15 the hospital has become ineligible to receive payments pursuant
16 to this section shall be returned to the state General Fund.

17 (E) In the event any portion of the federal disproportionate
18 share hospital allotment is applied to payments to any private
19 hospital, the department shall make any additional payments that
20 may be necessary from state funds so that the amount of the
21 disproportionate share hospital payments that are made to
22 designated public hospitals or nondesignated public hospitals is
23 not less than the amount that would have been made if the
24 allotment had not been applied to payments to any private
25 hospital.

26 (F) A hospital's total project year payment amount determined
27 under this section may be subject to reduction by offset pursuant
28 to Section 14115.5 or 14172.5.

29 14166.12. (a) The California Medical Assistance
30 Commission shall negotiate payment amounts, in accordance
31 with the selective provider contracting program established
32 pursuant to Article 2.6 (commencing with Section 14081), from
33 the Private Hospital Supplemental Fund established pursuant to
34 subdivision (b) for distribution to private hospitals that satisfy
35 the criteria of Section 14085.6, 14085.7, 14085.8, or 14085.9.

36 (b) The Private Hospital Supplemental Fund is hereby
37 established in the State Treasury. For purposes of this section,
38 "fund" means the Private Hospital Supplemental Fund.

(c) Notwithstanding Section 13340 of the Government Code, the fund shall be continuously appropriated to the department for the purposes specified in this section.

(d) Except as otherwise limited by this section, the fund shall consist of all of the following:

(1) One hundred eighteen million four hundred thousand dollars (\$118,400,000), which shall be transferred annually from General Fund amounts appropriated in the annual Budget Act for the Medi-Cal program.

(2) Any additional moneys appropriated to the fund.

(3) All stabilization funding transferred to the fund pursuant to subdivision (b) of Section 14166.14.

(4) Any moneys that any county, other political subdivision of the state, or other governmental entity in the state may elect to transfer to the department for deposit into the fund, as permitted under Section 433.51 of Title 42 of the Code of Federal Regulations or any other applicable federal Medicaid laws.

(5) All private moneys donated by private individuals or entities to the department for deposit in the fund as permitted under applicable federal Medicaid laws.

(6) Any interest that accrues on amounts in the fund.

(e) Any public agency transferring moneys to the fund may, for that purpose, utilize any revenues, grants, or allocations received from the state for health care programs or purposes, unless otherwise prohibited by law. A public agency may also utilize its general funds or any other public moneys or revenues for purposes of transfers to the fund, unless otherwise prohibited by law.

(f) The department may accept or not accept moneys offered to the department for deposit in the fund. If the department accepts moneys pursuant to this section, the department shall obtain federal financial participation to the full extent permitted by law. With respect to funds transferred or donated from private individuals or entities, the department shall accept only those funds that are certified by the transferring or donating entity that qualify for federal financial participation under the terms of the Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991 (P.L. 102-234) or Section 433.51 of Title 42 of the Code of Federal Regulations, as applicable. The

1 department may return any funds transferred or donated in
2 error.

3 (g) Moneys in the fund shall be used as the source for the
4 nonfederal share of payments to hospitals under this section.

5 (h) Any funds remaining in the fund at the end of a fiscal year
6 shall be carried forward for use in the following fiscal year.

7 (i) Moneys shall be allocated from the fund by the department
8 and shall be applied to obtain federal financial participation in
9 accordance with customary Medi-Cal accounting procedures for
10 purposes of payments under this section. Distributions from the
11 fund shall be supplemental to any other Medi-Cal reimbursement
12 received by the hospitals, including amounts that hospitals
13 receive under the selective provider contracting program (Article
14 2.6 (commencing with Section 14081)), and shall not affect
15 provider rates paid under the selective provider contracting
16 program.

17 (j) Each private hospital that was a private hospital during the
18 2002-03 fiscal year, received payments for the 2002-03 fiscal
19 year from any of the prior supplemental funds, and, during the
20 project year, satisfies the criteria in Section 14085.6, 14085.7,
21 14085.8, or 14085.9 to be eligible to negotiate for distributions
22 under any of those sections, shall receive no less from the Private
23 Hospital Supplemental Fund for the project year than 100
24 percent of the amount the hospital received from the prior
25 supplemental funds for the 2002-03 fiscal year. Each private
26 hospital described in this subdivision shall be eligible for
27 additional payments from the fund pursuant to subdivision (k).

28 (k) All amounts that are in the fund for a project year in excess
29 of the amount necessary to make the payments under subdivision
30 (j) shall be available for negotiation by the California Medical
31 Assistance Commission, along with corresponding federal
32 financial participation, for supplemental payments to private
33 hospitals, which for the project year satisfy the criteria under
34 Section 14085.6, 14085.7, 14085.8, or 14085.9 to be eligible to
35 negotiate for distributions under any of those sections, and paid
36 for services rendered during the project year pursuant to the
37 selective provider contracting program established under Article
38 2.6 (commencing with Section 14081).

39 (l) The amount of any stabilization funding transferred to the
40 fund with respect to a project year may in the discretion of the

1 *California Medical Assistance Commission be paid for services*
2 *furnished in the same project year regardless of when the*
3 *stabilization funds become available, provided the payment is*
4 *consistent with other applicable federal or state law*
5 *requirements and does not result in a hospital exceeding any*
6 *applicable reimbursement limitations.*

7 *(m) The department shall pay amounts due to a private*
8 *hospital from the fund for a project year, with the exception of*
9 *stabilization funding, in up to four installment payments, unless*
10 *otherwise provided in the hospital's contract negotiated with the*
11 *California Medical Assistance Commission, except that hospitals*
12 *that are not described in subdivision (j) shall not receive the first*
13 *installment payment. The first payment shall be made as soon as*
14 *practicable after the issuance of the tentative disproportionate*
15 *share hospital list for the project year, and in no event later than*
16 *January 1 of the project year. The second and subsequent*
17 *payments shall be made after the issuance of the final*
18 *disproportionate hospital list for the project year, and shall be*
19 *made only to hospitals that are on the final disproportionate*
20 *share hospital list for the project year. The second payment shall*
21 *be made by February 1 of the project year or as soon as*
22 *practicable after the issuance of the final disproportionate share*
23 *hospital list for the project year. The third payment, if scheduled,*
24 *shall be made by April 1 of the project year. The fourth payment,*
25 *if scheduled, shall be made by June 30 of the project year. This*
26 *subdivision does not apply to hospitals that are scheduled to*
27 *receive payments from the fund because they meet the criteria*
28 *under Section 14085.7 and do not meet the criteria under Section*
29 *14085.6, 14085.8, or 14085.9, which shall be paid in accordance*
30 *with the applicable contract or contract amendment negotiated*
31 *by the California Medical Assistance Commission.*

32 *(n) The department shall pay stabilization funding transferred*
33 *to the fund in amounts negotiated by the California Medical*
34 *Assistance Commission and shall pay the scheduled payments in*
35 *accordance with the applicable contract or contract amendment.*

36 *(o) Payments to private hospitals may be made using funds*
37 *transferred from governmental entities to the state, at the option*
38 *of the governmental entity. Any payments funded by*
39 *intergovernmental transfers shall remain with the private*
40 *hospital and shall not be transferred back to any unit of*

1 government. An amount equal to 25 percent of the amount of any
2 intergovernmental transfer made in the project year that results
3 in a supplemental payment made during the same project year to
4 a project year private DSH hospital located in the county that
5 made the intergovernmental transfer shall be deposited in the
6 fund for distribution as determined by the California Medical
7 Assistance Commission. An amount equal to 75 percent shall be
8 deposited in the fund and distributed to the private hospitals
9 designated by the counties.

10 14166.13. (a) With respect to each project year, the director
11 shall determine a baseline funding amount for each base year
12 private DSH hospital that is also a project year private DSH
13 hospital. A private hospital's baseline funding amount shall be
14 an amount equal to the total amount paid to the hospital for
15 inpatient hospital services rendered to Medi-Cal beneficiaries
16 during the 2004-05 state fiscal year, including the following
17 Medi-Cal payments, but excluding payments received under the
18 Medi-Cal Specialty Mental Health Services Consolidation
19 Program:

20 (1) Base payments under the selective provider contracting
21 program as provided for under Article 2.6 (commencing with
22 Section 14081), or under the Medi-Cal state plan cost
23 reimbursement system for inpatient hospital services for
24 noncontracting hospitals.

25 (2) Emergency Services and Supplemental Payments Fund
26 payments as provided for under Section 14085.6.

27 (3) Medi-Cal Medical Education Supplemental Payment Fund
28 payments and Large Teaching Emphasis Hospital and Children's
29 Hospital Medi-Cal Medical Education Supplemental Payment
30 Fund payments as provided for under Sections 14085.7 and
31 14085.8, respectively.

32 (4) Small and Rural Hospital Supplemental Payments Fund
33 payments as provided for under Section 14085.9.

34 (5) Disproportionate share hospital payment adjustments as
35 provided for under Section 14105.98.

36 (6) Administrative day payments as provided for under Section
37 51542 of Title 22 of the California Code of Regulations.

38 (b) The aggregate project year private DSH hospital baseline
39 funding amount shall be the sum of all baseline funding amounts
40 determined under subdivision (a).

1 (c) With respect to each project year beginning after the
2 2005-06 project year, an aggregate project year private hospital
3 adjusted baseline funding amount shall be determined as follows:

4 (1) The department shall determine the aggregate total
5 Medi-Cal revenue, using amounts determined under subdivision
6 (a), for inpatient hospital services rendered during the 2004-05
7 fiscal year for project year private hospitals, less the total
8 amount of disproportionate share hospital payments identified in
9 paragraph (5) of subdivision (a) for those hospitals.

10 (2) The department shall determine the aggregate total
11 Medi-Cal revenue paid or payable under this article, excluding
12 stabilization funding under Section 14166.14, using amounts
13 determined under subdivision (a) for inpatient hospital services
14 rendered during the fiscal year preceding the project year for
15 which the private hospital adjusted baseline funding amount is
16 being calculated for project year private hospitals, less the total
17 amount of disproportionate share hospital replacement payments
18 in Section 14166.11 for those hospitals.

19 (3) The department shall:

20 (A) Calculate the difference between the amount determined
21 under paragraph (1) and the amount determined under
22 paragraph (2).

23 (B) Determine the percentage increase or decrease by dividing
24 the difference in subparagraph (A) by the amount in paragraph
25 (1).

26 (C) Apply the percentage in subparagraph (B) to the
27 aggregate project year private DSH hospital baseline funding
28 amount determined under subdivision (b), less the total amount
29 of disproportionate share hospital replacement payments in
30 Section 14166.11 for those hospitals.

31 (4) The aggregate private hospital adjusted baseline funding
32 amount is the amount determined in paragraph (1), plus the
33 amount determined in subparagraph (C), plus the amount in
34 paragraph (5) of subdivision (a).

35 14166.14. The amount of any stabilization funding payable to
36 the project year private DSH hospitals under Section 14166.20
37 for a project year, which amount shall not include the amount of
38 stabilization funding paid or payable to hospitals prior to the
39 computation of the stabilization funding under Section 14166.20
40 plus any amount payable to project year private DSH hospitals

1 under paragraph (1) of subdivision (b) of Section 14166.21, shall
2 be allocated as follows:

3 (a) (1) To fund any shortfall due under Section 14166.11.

4 (2) An amount shall be transferred to the Private Hospital
5 Supplemental Fund established pursuant to Section 14166.20, as
6 may be necessary so that the amount for the Private Hospital
7 Supplemental Fund for the project year, including all funds
8 previously transferred to, or deposited in, the Private Hospital
9 Supplemental Fund for the project year, is not less than the
10 Private Hospital Supplemental Fund base amount determined
11 pursuant to subdivision (j) of Section 14166.12.

12 (3) The amounts paid or transferred under paragraphs (1) and
13 (2) shall be reduced pro rata if there is not sufficient funding
14 described under paragraphs (1) and (2).

15 (b) Of the stabilization funding remaining, after allocations
16 pursuant to subdivision (a), that are payable to project year
17 private DSH hospitals, 66.4 percent shall be allocated and
18 distributed among those hospitals pro rata based on the amounts
19 determined in accordance with Section 14166.11, and 33.6
20 percent shall be transferred to the Private Hospital Supplemental
21 Fund.

22 14166.15. (a) Payments to nondesignated public hospitals
23 under the demonstration project shall include, as applicable, the
24 following:

25 (1) Payments under selective provider contracts with the
26 department negotiated by the California Medical Assistance
27 Commission in accordance with Article 2.6 (commencing with
28 Section 14081).

29 (2) Disproportionate share hospital payments under Section
30 14166.16.

31 (3) Supplemental payments under Section 14166.17.

32 (4) Payments to distressed hospitals as negotiated by the
33 California Medical Assistance Commission pursuant to Section
34 14166.23.

35 (5) Payment of amounts described in Section 14166.19.

36 (b) Payments under subdivision (a) shall be in addition to
37 other payments that may be made in accordance with law.

38 14166.16. (a) The department shall compute for each
39 nondesignated public hospital for a project year, that is an
40 eligible hospital for the project year as determined under Section

1 14105.98, payment adjustment amounts as determined under
2 subdivision (am) of Section 14105.98 and supplemental payment
3 adjustment amounts as determined under subdivision (an) of
4 Section 14105.98.

5 (b) Nondesignated public hospitals shall comply with
6 subdivisions (a), (b), (d), (e), and (f) of Section 14166.8.

7 (c) Interim payments shall be made for the first five months of
8 each project year as follows:

9 (1) Interim payments shall be made to each nondesignated
10 public hospital identified on a tentative disproportionate share
11 list for the project year that was also on the final
12 disproportionate share list for the prior fiscal year. The interim
13 payment amount per month for the hospital shall be equal to
14 one-twelfth of the total payments, excluding stabilization funds,
15 made to the hospital for the prior fiscal year under this section or
16 under Section 14105.98. The interim payment amount may be
17 adjusted to reflect any changes in the total amount payments,
18 excluding stabilization funds, projected to be made under this
19 section for the project year.

20 (2) The computation of interim payments described in this
21 subdivision shall be made promptly after the department issues
22 the tentative disproportionate share hospital list for the project
23 year.

24 (3) The first interim payment to each hospital for a project
25 year shall be made no later than 60 days after the issuance of the
26 tentative disproportionate share hospital list for the project year
27 and shall include the interim payment amounts for all prior
28 months in the project year. Subsequent interim payments for a
29 project year shall be made on the last checkwrite of each month
30 made by the Controller until interim payments for the first five
31 months of the project year have been made.

32 (4) The department may recover any interim payments made
33 under this subdivision for a project year to a hospital that is not
34 on the final disproportionate share hospital list for the project
35 year. These interim payments shall be considered an
36 overpayment. The department shall issue a demand for
37 repayment to a hospital at least 30 days prior to taking action to
38 recover the overpayment. After the 30-day period, the
39 department may recover the overpayment using any of the
40 methods set forth in Section 14115.5 or subdivision (c) of Section

1 14172.5. Any offset shall be subject to Section 14115.5 or
2 subdivision (d) of Section 14172.5. No other provision of Section
3 14172.5 shall be applicable with respect to the recovery of
4 overpayments under this subdivision. A hospital may appeal the
5 department's determination of an overpayment under this
6 subdivision pursuant to the appeal procedures set forth in
7 Sections 51016 to 51047, inclusive, of Title 22 of the California
8 Code of Regulations, and seek judicial review of the final
9 administrative decision pursuant to Section 14171, provided that
10 the only issues that may be raised in the appeal are whether the
11 hospital, but for inadvertent error by the department, was on the
12 final disproportionate share list for the project year and whether
13 the department's computation of the overpayment amount is
14 correct. If the hospital is reinstated on the final disproportionate
15 share list pursuant to Section 14105.98, the department shall
16 promptly refund any amount recovered under this paragraph.

17 (d) Tentative adjusted monthly payments shall be made for
18 December through March of each project year to each
19 nondesignated public hospital identified on the final
20 disproportionate share hospital list for the project year,
21 computed and paid as follows:

22 (1) An adjusted payment amount shall be computed for each
23 hospital equal to the sum of the total payment adjustment amount
24 for the hospital computed pursuant to subdivision (am) of Section
25 14105.98, plus the supplemental lump-sum payment adjustment
26 amount computed pursuant to subdivision (an) of Section
27 14105.98, each as most recently computed by the department.

28 (2) A tentative adjusted monthly payment amount shall be
29 computed for each hospital equal to the adjusted payment
30 amount for the hospital, minus the aggregate interim payments
31 made to the hospital for the project year, divided by seven.

32 (3) The computation of tentative adjusted monthly payments
33 described in this subdivision shall be made promptly after the
34 department issues the final disproportionate share hospital list
35 for the project year.

36 (4) The first tentative adjusted monthly payment to each
37 hospital for a project year shall be made by January 15 or within
38 60 days after the issuance of the final disproportionate share
39 hospital list for the project year, whichever is later, and shall
40 include the tentative adjusted monthly payment amounts for all

1 prior months in the project year for which those payments are
2 due. Subsequent tentative adjusted monthly payments for a
3 project year shall be made on the last checkwrite of each month
4 made by the Controller until tentative adjusted monthly payments
5 for December through March of the project year have been
6 made.

7 (e) Three data corrected payments shall be made on the last
8 checkwrite of the month made by the Controller for the months of
9 April through June of each project year to each nondesignated
10 public hospital identified on the final disproportionate share
11 hospital list for the project year, computed and paid as follows:

12 (1) An annual data corrected payment amount shall be
13 computed for each hospital equal to the sum of the total payment
14 adjustment amount for the hospital computed pursuant to
15 subdivision (am) of Section 14105.98, plus the supplemental
16 lump-sum payment adjustment amount computed pursuant to
17 subdivision (an) of Section 14105.98, each as most recently
18 computed by the department. The annual data corrected payment
19 amounts shall reflect data corrections, hospital closures, and
20 other revisions made by the department to the adjusted payment
21 amounts computed under paragraph (1) of subdivision (d).

22 (2) A monthly data corrected payment amount shall be
23 computed for each hospital equal to the annual data corrected
24 payment amount for the hospital, minus both the aggregate
25 interim payments made to the hospital for the project year and
26 the aggregate tentative adjusted monthly payments made to the
27 hospital, divided by three.

28 (f) Payment under subdivisions (c), (d), and (e) for a month
29 shall be made only to hospitals open for patient care through the
30 15th day of the month.

31 (g) The department shall compute a final adjusted payment
32 amount for each nondesignated public hospital on the final
33 disproportionate share list for a project year after the completion
34 of the project year and the determination of the amount of
35 stabilization funding available to be paid under this section as
36 follows:

37 (1) An amount shall be computed for each hospital equal to
38 the sum of the total payment adjustment amount for the hospital
39 computed pursuant to subdivision (am) of Section 14105.98, plus
40 the supplemental lump-sum payment adjustment amount

1 *computed pursuant to subdivision (an) of Section 14105.98, each*
2 *as most recently computed by the department. These amounts*
3 *shall reflect data corrections, hospital closures, and other*
4 *revisions made by the department to the annual data corrected*
5 *payment amounts computed under paragraph (1) of subdivision*
6 *(e) in a manner that ensures that any payments not payable or*
7 *recouped are redistributed among hospitals eligible for a final*
8 *adjusted payment amount in accordance with the calculations*
9 *made pursuant to Section 14105.98.*

10 *(2) The department shall add to the amount computed for each*
11 *hospital under paragraph (1) a pro rata share of any*
12 *stabilization funding to be allocated and paid under this section*
13 *allocated based on the amounts computed under paragraph (1).*

14 *(3) The department shall for each hospital for each project*
15 *year reconcile the total amount computed for the hospital for the*
16 *project year under subdivisions (c), (d), and (e) with the amount*
17 *determined under paragraph (2). The department shall issue a*
18 *report to each hospital setting forth the result of the*
19 *reconciliation that shall include the department's computation,*
20 *data, and identification of data sources. The department shall*
21 *pay to the hospital any underpayment determined as a result of*
22 *this reconciliation and collect from the hospital any overpayment*
23 *determined as a result of this reconciliation.*

24 *(4) A hospital may seek to correct the department's data and*
25 *computations under this section in accordance with the processes*
26 *undertaken by the department to implement Section 14105.98 in*
27 *effect during the 2004-05 fiscal year.*

28 *14166.17. (a) The California Medical Assistance*
29 *Commission shall negotiate payment amounts in accordance with*
30 *the selective provider contracting program established pursuant*
31 *to Article 2.6 (commencing with Section 14081) from the*
32 *Nondesignated Public Hospital Supplemental Fund established*
33 *pursuant to subdivision (b) for distribution to nondesignated*
34 *public hospitals that satisfy the criteria of Section 14085.6,*
35 *14085.7, 14085.8, or 14085.9.*

36 *(b) The Nondesignated Public Hospital Supplemental Fund is*
37 *hereby established in the State Treasury. For purposes of this*
38 *section, "fund" means the Nondesignated Public Hospital*
39 *Supplemental Fund.*

(c) Notwithstanding Section 13340 of the Government Code, the fund shall be continuously appropriated to the department for the purposes specified in this section.

(d) Except as otherwise limited by this section, the fund shall consist of all of the following:

(1) One million nine hundred thousand dollars (\$1,900,000), which shall be transferred annually from General Fund amounts appropriated in the annual Budget Act for the fund.

(2) Any additional moneys appropriated to the fund.

(3) All stabilization funding transferred to the fund.

(4) All private moneys donated by private individuals or entities to the department for deposit in the fund as permitted under applicable federal Medicaid laws.

(5) Any interest that accrues on amounts in the fund.

(e) The department may accept or not accept moneys offered to the department for deposit in the fund. If the department accepts moneys pursuant to this section, the department shall obtain federal financial participation to the full extent permitted by law. With respect to funds transferred or donated from private individuals or entities, the department shall accept only those funds that are certified by the transferring or donating entity as qualifying for federal financial participation under the terms of the Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991 (P.L. 102-234) or Section 433.51 of Title 42 of the Code of Federal Regulations, as applicable. The department may return any funds transferred or donated in error.

(f) Moneys in the funds shall be used as the source for the nonfederal share of payments to hospitals under this section.

(g) Any funds remaining in the fund at the end of a fiscal year shall be carried forward for use in the following fiscal year.

(h) Moneys shall be allocated from the fund by the department and shall be applied to obtain federal financial participation in accordance with customary Medi-Cal accounting procedures for purposes of payments under this section. Distributions from the fund shall be supplemental to any other Medi-Cal reimbursement received by the hospitals, including amounts that hospitals receive under the selective provider contracts negotiated under Article 2.6 (commencing with Section 14081), and shall not affect

1 provider rates paid under the selective provider contracting
2 program.

3 (i) Each nondesignated public hospital that was a
4 nondesignated public hospital during the 2002-03 fiscal year,
5 received payments for the 2002-03 fiscal year from any of the
6 prior supplemental funds, and, during the project year satisfies
7 the criteria in Section 14085.6, 14085.7, 14085.8, or 14085.9 to
8 be eligible to negotiate for distributions under any of those
9 sections shall receive no less from the Nondesignated Public
10 Hospital Supplemental Fund for the project year than 100
11 percent of the amount the hospital received from the prior
12 supplemental funds for the 2002-03 fiscal year. Each hospital
13 described in this subdivision shall be eligible for additional
14 payments from the fund pursuant to subdivision (j).

15 (j) All amounts that are in the fund for a project year in excess
16 of the amount necessary to make the payments under subdivision
17 (i) shall be available for negotiation by the California Medical
18 Assistance Commission, along with corresponding federal
19 financial participation, for supplemental payments to
20 nondesignated public hospitals that for the project year satisfy
21 the criteria under Section 14085.6, 14085.7, 14085.8, or 14085.9
22 to be eligible to negotiate for distributions under any of those
23 sections, and paid for services rendered during the project year
24 pursuant to the selective provider contracting program under
25 Article 2.6 (commencing with Section 14081).

26 (k) The amount of any stabilization funding transferred to the
27 fund with respect to a project year may in the discretion of the
28 California Medical Assistance Commission to be paid for
29 services furnished in the same project year regardless of when
30 the stabilization funds become available, provided the payment is
31 consistent with other applicable federal or state legal
32 requirements and does not result in a hospital exceeding any
33 applicable reimbursement limitations.

34 (l) The department shall pay amounts due to a nondesignated
35 hospital from the fund for a project year, with the exception of
36 stabilization funding, in up to four installment payments, unless
37 otherwise provided in the hospital's contract negotiated with the
38 California Medical Assistance Commission, except that hospitals
39 that are not described in subdivision (i) shall not receive the first
40 installment payment. The first payment shall be made as soon as

1 practicable after the issuance of the tentative disproportionate
2 share hospital list for the project year, and in no event later than
3 January 1 of the project year. The second and subsequent
4 payments shall be made after the issuance of the final
5 disproportionate hospital list for the project year, and shall be
6 made only to hospitals that are on the final disproportionate
7 share hospital list for the project year. The second payment shall
8 be made by February 1 of the project year or as soon as
9 practicable after the issuance of the final disproportionate share
10 hospital list for the project year. The third payment, if scheduled,
11 shall be made by April 1 of the project year. The fourth payment,
12 if scheduled, shall be made by June 30 of the project year. This
13 subdivision does not apply to hospitals that are scheduled to
14 receive payments from the fund because they meet the criteria
15 under Section 14085.7 but do not meet the criteria under Section
16 14085.6, 14085.8, or 14085.9.

17 (m) The department shall pay stabilization funding
18 transferred to the fund in amounts negotiated by the California
19 Medical Assistance Commission and paid in accordance with the
20 applicable contract or contract amendment.

21 14166.18. (a) With respect to each project year, the director
22 shall determine a baseline funding amount for each
23 nondesignated public hospital that was an eligible hospital under
24 paragraph (3) of subdivision (a) of Section 14105.98 for both the
25 2004-05 fiscal year and the project year. A hospital's baseline
26 funding amount shall be an amount equal to the total amount
27 paid to the hospital for inpatient hospital services rendered to
28 Medi-Cal beneficiaries during 2004-05 fiscal year, including the
29 following Medi-Cal payments, but excluding payments received
30 under the Medi-Cal Specialty Mental Health Services
31 Consolidation Program:

32 (1) Base payments under the selective provider contracting
33 program as provided for under Article 2.6 (commencing with
34 Section 14081) or the Medi-Cal state plan cost reimbursement
35 system for inpatient hospital services for noncontracting
36 hospitals.

37 (2) Emergency Services and Supplemental Payments Fund
38 payments as provided for under Section 14085.6.

39 (3) Medi-Cal Medical Education Supplemental Payment Fund
40 payments and Large Teaching Emphasis Hospital and Children's

1 *Hospital Medi-Cal Medical Education Supplemental Payment*
2 *Fund payments as provided for under Sections 14085.7 and*
3 *14085.8, respectively.*

4 *(4) Small and Rural Hospital Supplemental Payments Fund*
5 *payments as provided for under Section 14085.9.*

6 *(5) Disproportionate share hospital payment adjustments as*
7 *provided for under Section 14105.98.*

8 *(6) Administrative day payments as provided for under Section*
9 *51542 of Title 22 of the California Code of Regulations.*

10 *(b) The aggregate nondesignated public hospital baseline*
11 *funding amount shall be the sum of all baseline funding amounts*
12 *determined under subdivision (a).*

13 *(c) With respect to each project year beginning after the*
14 *2005-06 project year, an aggregate nondesignated public*
15 *hospital adjusted baseline funding amount shall be determined as*
16 *follows:*

17 *(1) The department shall determine the aggregate total*
18 *Medi-Cal revenue, using amounts determined under subdivision*
19 *(a), with respect to inpatient hospital services rendered during*
20 *the 2004-05 fiscal year for nondesignated public hospitals that*
21 *were eligible hospitals under paragraph (3) of subdivision (a) of*
22 *Section 14105.98 on the last day of the project year less the total*
23 *amount of disproportionate share hospital payments identified in*
24 *paragraph (5) of subdivision (a) for those hospitals.*

25 *(2) The department shall determine the aggregate total*
26 *Medi-Cal revenue, using amounts determined under subdivision*
27 *(a), with respect to inpatient hospital services rendered during*
28 *the fiscal year preceding the project year for which the*
29 *nondesignated public hospital adjusted baseline funding amount*
30 *is being calculated for the nondesignated public hospitals*
31 *described in paragraph (1), less the total amount of*
32 *disproportionate share hospital payments in paragraph (5) of*
33 *subdivision (a) for those hospitals.*

34 *(3) The department shall:*

35 *(A) Calculate the difference between the amount determined*
36 *under paragraph (1) and the amount determined under*
37 *paragraph (2).*

38 *(B) Determine the percentage increase or decrease by dividing*
39 *the difference in subparagraph (A) by the amount in paragraph*
40 *(1).*

1 (C) Apply the percentage in subparagraph (B) to the
2 aggregate nondesignated public hospital baseline funding
3 amount determined under subdivision (b) less the total amount of
4 disproportionate share hospital payments in paragraph (5) of
5 subdivision (a) for those hospitals.

6 (D) The aggregate nondesignated public hospital adjusted
7 baseline funding amount is the amount determined in subdivision
8 (b), plus the amount determined in subparagraph (C).

9 14166.19. The amount of any stabilization funding payable to
10 the nondesignated public hospitals under paragraph (4) of
11 subdivision (b) of Section 14166.20 for a project year, which
12 amount shall not include the amount of stabilization funding paid
13 or payable to hospitals prior to the computation of the
14 stabilization funding under Section 14166.20, shall be allocated
15 in the following priority:

16 (a) An amount shall be transferred to the Nondesignated
17 Public Hospital Supplemental Fund, as may be necessary so that
18 the amount for the Nondesignated Public Hospital Supplemental
19 Fund for the project year, including all funds previously
20 transferred to, or deposited in, the Nondesignated Public
21 Hospital Supplemental Fund for the project year, is not less than
22 one million nine hundred thousand dollars (\$1,900,000).

23 (b) Of the remaining stabilization funding payable to
24 nondesignated public hospitals, 75 percent shall be allocated,
25 distributed, and paid in accordance with Section 14166.16, and
26 25 percent shall be transferred to the Nondesignated Public
27 Hospital Supplemental Fund.

28 14166.20. (a) With respect to each project year, the total
29 amount of stabilization funding shall be the sum of the following:

30 (1) Federal Medicaid funds available in the Health Care
31 Support Fund, established pursuant to Section 14166.21, reduced
32 by the amount necessary to meet the baseline funding amount, or
33 the adjusted baseline funding amount, as appropriate, for project
34 years after the 2005-06 project year for each designated public
35 hospital, project year private DSH hospitals in the aggregate,
36 and nondesignated public hospitals in the aggregate as
37 determined in Sections 14166.5, 14166.13, and 14166.18,
38 respectively, taking into account all other payments to each
39 hospital under this article. This amount shall be not less than
40 zero.

1 (2) *The state general funds that were made available due to*
2 *the receipt of federal funding for previously state-funded*
3 *programs through the safety net care pool and any federal*
4 *Medicaid hospital reimbursements resulting from these*
5 *expenditures, unless otherwise recognized under paragraph (1).*

6 (3) *To the extent not included in paragraph (1) or (2), the*
7 *amount of the increase in state General Fund expenditures for*
8 *Medi-Cal inpatient hospital services for the project year for*
9 *project year private DSH hospitals and nondesignated public*
10 *hospitals, including amounts expended in accordance with*
11 *paragraph (1) of subdivision (c) of Section 14166.23 that exceeds*
12 *the expenditure amount for the same purpose and the same*
13 *hospitals in the 2004-05 state fiscal year, and any direct grants*
14 *to designated public hospitals for services under the*
15 *demonstration project.*

16 (4) *To the extent not included in paragraph (2), federal*
17 *Medicaid funds received by the state as a result of the General*
18 *Fund expenditures described in paragraph (3).*

19 (5) *The federal Medicaid funds received by the state as a*
20 *result of federal financial participation with respect to Medi-Cal*
21 *payments for inpatient hospital services made to project year*
22 *private DSH hospitals for services rendered during the project*
23 *year, the state share of which was derived from*
24 *intergovernmental transfers or certified public expenditures of*
25 *any public entity that does not own or operate a public hospital.*

26 (b) *With respect to the 2005-06 and 2006-07 project years, the*
27 *stabilization funding determined under subdivision (a) shall be*
28 *allocated as follows:*

29 (1) *Eight million dollars (\$8,000,000) shall be paid to San*
30 *Mateo Medical Center.*

31 (2) (A) *Ninety-six million five hundred thousand dollars*
32 *(\$96,500,000) shall be allocated to designated public hospitals to*
33 *be paid in accordance with Section 14166.75.*

34 (B) *Forty-two million five hundred thousand dollars*
35 *(\$42,500,000) shall be allocated to private DSH hospitals to be*
36 *paid in accordance with Section 14166.14.*

37 (C) *In the event that stabilization funding is less than one*
38 *hundred forty-seven million dollars (\$147,000,000), the amounts*
39 *allocated to designated public hospitals and private DSH*
40 *hospitals under this paragraph shall be reduced proportionately.*

1 (3) *An amount equal to the lesser of 10 percent of the total*
2 *amount determined under subdivision (a) of Section 14166.20 or*
3 *twenty-three million five hundred thousand dollars (\$23,500,000)*
4 *shall be made available for additional payments to distressed*
5 *hospitals that participate in the selective provider contracting*
6 *program under Article 2.6 (commencing with Section 14081),*
7 *including designated public hospitals, in amounts to be*
8 *determined by the California Medical Assistance Commission.*
9 *The additional payments to designated public hospitals shall be*
10 *negotiated by the California Medical Assistance Commission, but*
11 *shall be paid by the department in the form of a direct grant*
12 *rather than as Medi-Cal payments.*

13 (4) *An amount equal to 0.56 percent of the total amount*
14 *determined under subdivision (a), to nondesignated public*
15 *hospitals to be paid in accordance with Section 14166.19.*

16 (5) *The amount remaining after subtracting the amount*
17 *determined in paragraphs (1) to (4), inclusive, shall be allocated*
18 *as follows:*

19 (A) *Sixty percent to designated public hospitals to be paid in*
20 *accordance with Section 14166.75.*

21 (B) *Forty percent to project year private DSH hospitals to be*
22 *paid in accordance with Section 14166.14.*

23 (c) *By April 1 of the year following the project year for which*
24 *the payment is made, and after taking into account final amounts*
25 *otherwise paid or payable to hospitals under this article, the*
26 *director shall calculate in accordance with subdivision (a),*
27 *allocate in accordance with subdivision (b), and pay to hospitals*
28 *in accordance with Sections 14166.75, 14166.14, and 14166.19,*
29 *as applicable, the stabilization funding.*

30 (d) *For purposes of determining amounts paid or payable to*
31 *hospitals under subdivision (c), the department shall apply the*
32 *following:*

33 (1) *In determining amounts paid or payable to designated*
34 *public hospitals that are based on allowable costs incurred by*
35 *the hospital, or the governmental entity with which it is affiliated,*
36 *the following shall apply:*

37 (A) *If the final payment amount is based on the hospital's*
38 *Medicare cost report, the department shall rely on the cost report*
39 *filed with the Medicare fiscal intermediary for the project year*
40 *for which the calculation is made, reduced by a percentage that*

1 represents the average percentage change from total reported
2 costs to final costs for the three most recent cost reporting
3 periods for which final determinations have been made, taking
4 into account all administrative and judicial appeals. Protested
5 amounts shall not be considered in determining the average
6 percentage change unless the same or similar costs are included
7 in the project year cost report.

8 (B) If the final payment amount is based on costs not included
9 in subparagraph (A), the reported costs as of the date the
10 determination is made under subdivision (c), shall be reduced by
11 10 percent.

12 (C) In addition to adjustments required in subparagraphs (A)
13 and (B), the department shall adjust amounts paid or payable to
14 designated public hospitals by any applicable deferrals or
15 disallowances identified by the federal Centers for Medicare and
16 Medicaid Services as of the date the determination is made under
17 subdivision (c) not otherwise reflected in subparagraphs (A) and
18 (B).

19 (2) Amounts paid or payable to project year private DSH
20 hospitals and nondesignated public hospitals shall be determined
21 by the most recently available Medi-Cal paid claims data
22 increased by a percentage to reflect an estimate of amounts
23 remaining unpaid.

24 (e) The department shall consult with hospital representatives
25 regarding the appropriate calculation of stabilization funding
26 before stabilization funds are paid to hospitals. No later than 30
27 days after this consultation, the department shall establish a final
28 determination of stabilization funding that shall not be modified
29 for any reason other than mathematical errors or mathematical
30 omissions on the part of the department.

31 (f) The department shall distribute 75 percent of the estimated
32 stabilization funding on an interim basis throughout the project
33 year.

34 14166.21. (a) The Health Care Support Fund is hereby
35 established in the State Treasury. Notwithstanding Section 13340
36 of the Government Code, the fund shall be continuously
37 appropriated to the department for the purposes specified in this
38 article.

39 (b) Amounts in the Health Care Support Fund shall be paid in
40 the following order of priority:

1 (1) To hospitals for services rendered to Medi-Cal
2 beneficiaries and the uninsured in an amount necessary to meet
3 the aggregate baseline funding amount, or the adjusted
4 aggregate baseline funding amount for project years after the
5 2005-06 project year, as specified in subdivision (d) of Section
6 14166.5, subdivision (b) of Section 14166.13, and Section
7 14166.18, taking into account all other payments to each hospital
8 under this article. If the amount in the Health Care Support Fund
9 is inadequate to provide full aggregate baseline funding, or
10 adjusted aggregate baseline funding, to all designated public
11 hospitals, project year private DSH hospitals, and nondesignated
12 public hospitals, each group's payments shall be reduced pro
13 rata.

14 (2) To the extent necessary to maximize federal funding under
15 the demonstration project and consistent with Section 14166.22,
16 the department may obtain safety net care pool funds based on
17 health care expenditures incurred by the department for
18 uncompensated medical care costs of medical services provided
19 to uninsured individuals, as approved by the federal Centers for
20 Medicare and Medicaid Services.

21 (3) Stabilization funding, allocated and paid in accordance
22 with Sections 14166.75, 14166.14, and 14166.19.

23 (4) Any amounts remaining after final reconciliation of all
24 amounts due at the end of a project year shall remain available
25 for payments in accordance with this section in the next project
26 year.

27 (5) The fund shall include any interest that accrues on
28 amounts in the fund.

29 14166.22. (a) To the extent required to maximize available
30 federal funds under the demonstration project and to the extent
31 authorized by the Special Terms and Conditions for the
32 demonstration project, the department may claim federal
33 reimbursement for expenditures, consistent with the equitable
34 distribution established under this article, in the following
35 priority order:

36 (1) The medically indigent adults long-term care program.

37 (2) The Genetically Handicapped Person's Program
38 established pursuant to Article 1 (commencing with Section
39 125125) of Chapter 2 of Part 5 of Division 106 of the Health and
40 Safety Code.

1 (3) *The Breast and Cervical Cancer Treatment Program*
2 *established pursuant to Article 1.5 (commencing with Section*
3 *104160) of Chapter 2 of Part 1 of Division 103 of the Health and*
4 *Safety Code.*

5 (4) *The California Children’s Services Program established*
6 *pursuant to Article 5 (commencing with Section 123800) of*
7 *Chapter 3 of Part 2 of Division 106 of the Health and Safety*
8 *Code.*

9 (b) *Notwithstanding any other state law, the federal*
10 *reimbursement received as a result of a claim made pursuant to*
11 *subdivision (a) shall be used to create General Fund savings*
12 *solely for the department for use in support of safety net hospitals*
13 *under the demonstration project.*

14 (c) *The federal reimbursement received as a result of a claim*
15 *made pursuant to subdivision (a) is hereby appropriated to the*
16 *department for the program in which the claimed expenditures*
17 *were made.*

18 (d) *An amount of General Fund moneys appropriated to the*
19 *department for programs specified in subdivision (a) equal to the*
20 *amount of federal reimbursement identified pursuant to*
21 *subdivision (c) is hereby reappropriated to the Health Care*
22 *Deposit Fund to be used for the purposes set forth in this article.*

23 14166.23. (a) *For purposes of this section, “distressed*
24 *hospitals” are hospitals that participate in selective providers*
25 *contracting under Article 2.6 (commencing with Section 14081)*
26 *and that meet all of the following requirements, as determined by*
27 *the California Medical Assistance Commission in its discretion:*

28 (1) *The hospital serves a substantial volume of Medi-Cal*
29 *patients measured either as a percentage of the hospital’s overall*
30 *volume or by the total volume of Medi-Cal services furnished by*
31 *the hospital.*

32 (2) *The hospital is a critical component of the Medi-Cal*
33 *program’s health care delivery system, such that the Medi-Cal*
34 *health care delivery system would be significantly disrupted if the*
35 *hospital reduced its Medi-Cal services or no longer participated*
36 *in the Medi-Cal program.*

37 (3) *The hospital is facing a significant financial hardship that*
38 *may impair its ability to continue its range of services for the*
39 *Medi-Cal program.*

1 ***(b) The Distressed Hospital Fund is hereby created in the***
2 ***State Treasury.***

3 ***(c) Notwithstanding Section 13340 of the Government Code,***
4 ***the fund shall be continuously appropriated to the department for***
5 ***the purposes specified in this section.***

6 ***(d) Except as otherwise limited by this section, the fund shall***
7 ***consist of all of the following:***

8 ***(1) The amounts transferred to the fund pursuant to***
9 ***subdivision (e).***

10 ***(2) Any additional amounts appropriated to the fund by the***
11 ***Legislature.***

12 ***(3) Any interest that accrues on amounts in the fund.***

13 ***(e) The following amounts shall be transferred to the fund***
14 ***from the prior supplemental funds at the beginning of each***
15 ***project year.***

16 ***(1) Twenty percent of the amount in the prior supplemental***
17 ***funds on the effective date of this article, less any and all***
18 ***payments for services rendered prior to July 1, 2005, but paid***
19 ***after July 1, 2005.***

20 ***(2) Interest that accrued on the prior supplemental funds***
21 ***during the prior project year.***

22 ***(f) No distributions, payments, transfers, or disbursements***
23 ***shall be made from the prior supplemental funds except as set***
24 ***forth in this section.***

25 ***(g) Moneys in the fund shall be used as the source for the***
26 ***nonfederal share of payments to hospitals under this section.***

27 ***(h) Except as otherwise provided in subdivision (j), moneys***
28 ***shall be applied to obtain federal financial participation to the***
29 ***extent available in accordance with customary Medi-Cal***
30 ***accounting procedures for purposes of payments under this***
31 ***section. Distributions from the fund shall be supplemental to any***
32 ***other Medi-Cal reimbursement received by the hospitals,***
33 ***including amounts that hospitals receive under the selective***
34 ***provider contracting program, and shall not affect provider rates***
35 ***paid under the selective provider contracting program.***

36 ***(i) Subject to subdivision (j), all amounts that are in the fund***
37 ***shall be available for negotiation by the California Medical***
38 ***Assistance Commission, along with corresponding federal***
39 ***financial participation, for additional payments to distressed***
40 ***hospitals. These amounts shall be paid under contracts entered***

1 into by the department and negotiated by the California Medical
2 Assistance Commission pursuant to Article 2.6 (commencing
3 with Section 14081), provided that any amounts payable to a
4 designated public hospital shall be paid in the form of a direct
5 grant of state general funds pursuant to a contract negotiated by
6 the California Medical Assistance Commission.

7 (j) After April 1, 2007, in the event that funding under this
8 article is insufficient to make payments to hospitals under Section
9 14166.5, 14166.13, or 14166.18, funds under this section shall
10 first be available for use under contracts negotiated by the
11 California Medical Assistance Commission for hospitals
12 contracting under the selective provider contracting program
13 under Article 2.6 (commencing with Section 14081) that fall
14 below their 2005-06 project year baseline to the extent funds are
15 available.

16 (k) Any funds remaining in the fund at the end of a fiscal year
17 shall be carried forward for use in the following fiscal year.

18 14166.24. (a) Any determination of the amount due a
19 designated public hospital that is based in whole or in part on
20 costs reported to or audited by a Medicare fiscal intermediary
21 shall not be deemed final for purposes of this article unless the
22 hospital has received a final determination of Medicare payment
23 for the cost reporting for Medicare purposes. Designated public
24 hospitals shall be entitled to pursue all administrative and
25 judicial review available under the Medicare program and any
26 final determination shall be incorporated into the department's
27 final determination of payment due the hospital under this
28 article.

29 (b) If as a result of an audit performed by the department or
30 any state or federal agency, the department determines that any
31 hospital participating in the demonstration project has been
32 overpaid under the demonstration project, the department shall
33 recoup the overpayment in accordance with Sections 14172.5 or
34 14115.5. The hospital may appeal the overpayment
35 determinations and any related audit determination in
36 accordance with the appeal procedures set forth in Sections
37 51016 to 51047, inclusive, of Title 22 of the California Code of
38 Regulations. The hospital may seek judicial review of the final
39 administrative decision as set forth in Section 14171.

1 (c) The department shall promptly consult with the affected
2 governmental entity regarding a dispute between a designated
3 public hospital and the department regarding the validity of the
4 hospital's certified public expenditures. If the department
5 determines that the hospital's certification is valid, the
6 department shall submit the claim to obtain federal
7 reimbursement for the certified expenditure in question.

8 (d) (1) Upon receipt of a notice of disallowance or deferral
9 from the federal government related to the certified public
10 expenditures or intergovernmental transfers of any governmental
11 entity participating in the demonstration project, the department
12 shall promptly notify the affected governmental entity. The
13 governmental entity that certified the public expenditure shall be
14 the entity responsible for the federal portion of that expenditure.

15 (2) The department and the affected governmental entity shall
16 promptly consult regarding the proposed disallowance or
17 deferral.

18 (3) After consulting with the governmental entity, the
19 department shall determine whether the disallowance or
20 response to a deferral should be filed with the federal
21 government. If the department determines the appeal or response
22 has merit, the department shall timely appeal. If necessary, the
23 department may request an extension of the deadline to file an
24 appeal or response to a deferral. The affected governmental
25 entity may provide the department with the legal and factual
26 basis for the appeal or response.

27 14166.25. Unless this article is repealed pursuant to
28 subdivision (b) or (g) of Section 14166.2, this article shall
29 become inoperative on the date that the director executes a
30 declaration, which shall be retained by the director and provided
31 to the fiscal and appropriate policy committees of the
32 Legislature, stating that the federal demonstration project
33 provided for in this article has been terminated by the federal
34 Centers for Medicare and Medicaid Services, and shall, six
35 months after the date the declaration is executed, be repealed.

36 SEC. 2. There is hereby appropriated the following amounts
37 to the State Department of Health Services for expenditure for
38 purposes of the Medi-Cal Hospital/Uninsured Care
39 Demonstration Project created pursuant to Article 5.2
40 (commencing with Section 14166) of Chapter 7 of Part 3 of

1 *Division 9 of the Welfare and Institutions Code, to fund State*
2 *Department of Health Services staff positions to support*
3 *activities related to ensuring the availability of adequate*
4 *resources for implementation, monitoring, and continuous*
5 *operation of the demonstration project, including education,*
6 *outreach, and enrollment, maintaining eligibility systems,*
7 *compliance with cost sharing, and reporting on financial and*
8 *other demonstration project components:*

9 *(a) One million seven hundred thousand (\$1,700,000) from the*
10 *General Fund.*

11 *(b) One million seven hundred thousand (\$1,700,000) from the*
12 *Federal Trust Fund.*

13 *SEC. 3. This act is an urgency statute necessary for the*
14 *immediate preservation of the public peace, health, or safety*
15 *within the meaning of Article IV of the Constitution and shall go*
16 *into immediate effect. The facts constituting the necessity are:*

17 *In order to make the necessary statutory changes to implement*
18 *the Medi-Cal Hospital/Uninsured Care Demonstration Project,*
19 *to preserve the financial viability of the state's safety net*
20 *hospitals, as soon as possible, it is necessary that this act take*
21 *effect immediately.*

22 ~~SECTION 1. Section 56661 of the Government Code is~~
23 ~~amended to read:~~

24 ~~56661. To the extent that the commission maintains an~~
25 ~~Internet Web site, notice of all public hearings shall be made~~
26 ~~available in electronic format on that site. The executive officer~~
27 ~~shall also give mailed notice of any hearing by the commission,~~
28 ~~as provided in Sections 56155 to 56157, inclusive, by mailing~~
29 ~~notice of the hearing or transmitting by electronic mail, if~~
30 ~~available to the recipient, to all of the following persons and~~
31 ~~entities:~~

32 ~~(a) To each affected local agency by giving notice to the~~
33 ~~legislative body and the executive officer of the agency.~~

34 ~~(b) To the proponents, if any.~~

35 ~~(c) To each person who has filed a written request for special~~
36 ~~notice with the executive officer.~~

37 ~~(d) If the proposal is for any annexation or detachment, or for~~
38 ~~a reorganization providing for the formation of a new district, to~~
39 ~~each city within three miles of the exterior boundaries of the~~

1 territory proposed to be annexed, detached, or formed into a new
2 district.

3 (e) If the proposal is to incorporate a new city or for the
4 formation of a district, to the affected county.

5 (f) If the proposal includes a change of organization or
6 reorganization of a city or special district that provides or would
7 provide structural fire protection services where the affected
8 territory is a state responsibility area, as determined pursuant to
9 Article 3 (commencing with Section 4125) of Chapter 1 of Part 2
10 of Division 4 of the Public Resources Code, to the Director of
11 Forestry and Fire Protection.

12 (g) If the proposal would result in the annexation to a city of
13 land that is subject to a contract executed pursuant to the
14 Williamson Act (Chapter 7 (commencing with Section 51200) of
15 Division 1), to the Director of Conservation.

16 (h) To all landowners within the affected territory pursuant to
17 the provisions of subdivision (d) of Section 56157.

18 (i) To all registered voters within the affected territory
19 pursuant to the provisions of subdivision (f) of Section 56157.

20 SEC. 2. Section 56668 of the Government Code is amended
21 to read:

22 56668. Factors to be considered in the review of a proposal
23 shall include, but not be limited to, all of the following:

24 (a) Population and population density; land area and land use;
25 per capita assessed valuation; topography, natural boundaries,
26 and drainage basins; proximity to other populated areas; the
27 likelihood of significant growth in the area, and in adjacent
28 incorporated and unincorporated areas, during the next 10 years.

29 (b) Need for organized community services; the present cost
30 and adequacy of governmental services and controls in the area;
31 probable future needs for those services and controls; probable
32 effect of the proposed incorporation, formation, annexation, or
33 exclusion and of alternative courses of action on the cost and
34 adequacy of services and controls in the area and adjacent areas.

35 "Services," as used in this subdivision, refers to governmental
36 services whether or not the services are services which would be
37 provided by local agencies subject to this division, and includes
38 the public facilities necessary to provide those services.

~~(e) The effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on the local governmental structure of the county.~~

~~(d) The conformity of both the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the policies and priorities set forth in Section 56377.~~

~~(e) The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by Section 56016.~~

~~(f) The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries.~~

~~(g) Consistency with city or county general and specific plans.~~

~~(h) The sphere of influence of any local agency which may be applicable to the proposal being reviewed.~~

~~(i) The comments of any affected local agency or other public agency.~~

~~(j) The ability of the newly formed or receiving entity to provide the services which are the subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change.~~

~~(k) Timely availability of water supplies adequate for projected needs as specified in Section 65352.5.~~

~~(l) The extent to which the proposal will affect a city or cities and the county in achieving their respective fair shares of the regional housing needs as determined by the appropriate council of governments consistent with Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7.~~

~~(m) Any information or comments from the landowner or owners.~~

~~(n) Any information relating to existing land use designations.~~

~~SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or~~

- 1 ~~level of service mandated by this act, within the meaning of~~
- 2 ~~Section 17556 of the Government Code.~~

O